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HERSHEY CHOCOLATE CORPORATION

Hershey, Pennsylvania

*To the Holders of Convertible Preference
and Common Stock:*

A Special Meeting of Stockholders has been called for November 22, 1949 to consider and act upon a proposed Plan to reclassify the Convertible Preference Stock of the Corporation.

The purpose of this letter is to review briefly the reasons for the Plan and its effect upon the stockholders. For more detailed information reference is made to the accompanying Proxy Statement.

Present Capital Structure

In certain important respects the present capital structure of the Corporation, which was created in 1927, is unsatisfactory from the viewpoint of stockholders and of the Corporation as a whole. There are now outstanding 253,843 shares of Convertible Preference Stock and 2,057,250 shares of Common Stock. The Convertible Preference Stock is non-redeemable, is entitled to a cumulative dividend of $4 per annum plus an additional dividend of $1 in any year in which dividends are declared on the Common Stock and is convertible into 3 shares of Common.

The non-redeemable feature makes for an inflexible capital structure; and it is believed that the potential dilution of the Common Stock through the possible future conversion of the present Preference Stock may have exercised and, unless corrected, may continue to exercise a depressing effect upon the market price for the Common Stock.

This operates to the disadvantage of the holders of both the present Preference and the Common Stock. The amount of Common Stock into which the Preference Stock is convertible is 37% of the amount of Common Stock now outstanding and the very size of the potential number of shares issuable upon conversion tends to reduce the value of the conversion privilege.

Proposed Plan of Reclassification

After much consideration the Plan now submitted to you has been evolved. We are convinced that this Plan gives full recognition to the relative rights and privileges of the holders of each class of Stock and will give the Corporation a better capital structure.

The Plan provides for a reclassification of each share of Convertible Preference Stock into:

1 share Series A 4¼% Cumulative Preferred Stock, $50 par, plus
1 share Series B 4½% Cumulative Preferred Stock, $50 par, plus
1 share Common Stock, no par.

Both series of new Preferred Stock will rank equally as to dividends and assets, will be redeemable and will not be convertible into Common Stock. The detailed terms and provisions of the new Preferred Stock are set forth in the Proxy Statement.

EFFECT OF THE PLAN ON HOLDERS OF PRESENT PREFERENCE STOCK

As to Income

The maximum dividend rate on the present Preference Stock is $5 per share. The "Reclassification Package" which each share of such stock will receive will carry an aggregate dividend of $4.37½ from the new Preferred Stock plus whatever dividends may be paid on 1 share of Common Stock.

On the basis of dividends paid on Common Stock in 1948 ($2 per share) the Preference stockholders would receive from the "Reclassification Package" aggregate dividends of $6.37½ per share as compared with $5 on the present Preference Stock. The management does not antici-

pate that the increase in number of shares of Common Stock resulting from the reclassification will operate to decrease dividends per share paid on the Common.

As to the historical record of dividends, beginning in 1930 annual dividends have been paid on the Common Stock without interruption. During the 19-year period from 1930 through 1948 the lowest annual dividend paid on the Common Stock was $1 per share and the average for the full period was $1.22 per share (after giving effect to the 3-for-1 split-up of Common Stock in 1947). Thus, on the basis of the lowest annual dividend paid on the Common Stock during that period the Preference stockholders would receive aggregate dividends of $5.37½ for each present share and, on the basis of the average for the nineteen years, would receive $5.59½ per share.

As to Redeemability

The present Preference Stock is non-redeemable whereas the new Preferred will be redeemable. The Common Stock to be received will of course not be subject to redemption.

As to Convertibility

Each share of present Preference Stock is convertible into 3 shares of Common and if this stock were entirely converted the holders would receive Common Stock representing approximately 27% of the amount which would then be outstanding but would have no Preferred Stock.

In contrast, under the Plan the Preference stockholders will receive 1 share of Common Stock plus $100 par value of Preferred Stock. In the aggregate they will receive approximately 11% of the Common Stock to be outstanding, or 40% of the maximum percentage interest they would receive upon complete conversion of their present stock, and in addition will receive $25,384,300 par value of new Preferred.

As to Market Values

Wertheim & Co., the Corporation's financial advisor in connection with the Plan, has given an opinion that a unit of one share of new 4¼% and one share of new 4½% Preferred Stock should have a market value under present conditions of not less than $103. On October 24, 1949 the closing bid for the Common Stock on the New York Stock Exchange was $37 per share, giving a market value to the "Reclassification Package" on this basis of $140.

This valuation of $140, which of course is subject to change, compares with a market for the present Preference Stock of approximately $120 late in August, when active discussion of the proposed Plan was initiated. It is also higher than the highest price at which the Preference Stock has sold since it was issued except in 1946 when it sold as high as $146.50 and in 1929 when it sold as high as $143.25. The historic price range of the Preference Stock appears on page 5 of the Proxy Statement.

As to Preemptive Rights

In the event of future issues of Common Stock for cash holders of the present Preference Stock, as a class, would have the preemptive right to subscribe to approximately 27% of such issues. Under the Plan the Common Stock issued to them would give such holders a preemptive right to subscribe to approximately 11% of any such issues but the new Preferred Stock would not itself have preemptive rights. The issue of additional Common Stock for cash is not presently contemplated by the management.

EFFECT OF THE PLAN ON HOLDERS OF COMMON STOCK

As to Proportionate Ownership

The Plan will reduce the proportionate interest of the present Common stockholders from 100% to approximately 89% because of the immediate issue of Common Stock to the Preference

stockholders. On the other hand, if all of the present Preference Stock ultimately converted the interest of the present Common Stockholders would be reduced to approximately 73% although at that time there would be no Preference Stock outstanding, whereas under the Plan $25,384,300 par value of new Preferred Stock will be issued.

As to Dividends

As stated above, the Management does not anticipate that the increase in number of shares of Common Stock resulting from this reclassification will operate to decrease dividends per share paid on the Common.

As to Earnings

The effect of the Plan upon earnings per share of Common Stock will depend upon the level of earnings, the amount of present Preference Stock that might be converted if no plan had been presented, and upon possible savings in Preferred charges which might arise from a refinancing of all or a portion of the new Preferred Stock. For example, the Company's financial advisor, Wertheim & Co., has expressed the opinion that the Company could, on the basis of money rates presently available and existing income tax laws, effect a saving equivalent to a reduction of at least 30% in the new Preferred dividend charges if it were to refinance only the Series B 4½% Preferred with long-term debentures (taking into account deductibility of interest for income tax purposes).

The table on page 8 of the Proxy Statement shows the effect of the Plan on earnings per share at various levels of income. It will be noted, for instance, that during the three years, 1946-48, earnings on the Common Stock averaged $4.48 per share annually but would have been reduced to $3.72 per share if the Preference Stock had been entirely converted. In contrast, had the Plan been in effect for this period, the earnings on the Common Stock would have averaged $4.06 a share and would have been increased to $4.20 a share had Preferred dividend charges been reduced through refinancing to the extent mentioned above.

NON-TAXABILITY

In the opinion of our counsel the reclassification of the present Preference Stock into the new Preferred and Common Stock will not involve the realization by holders of Preference Stock or Common Stock of a taxable gain or loss under present Federal income tax laws.

LISTING

The Corporation intends promptly to make application for listing the new Preferred Stock and additional Common Stock on the New York Stock Exchange.

CONCLUSION

Your Directors have given you the reasons why they believe the proposed Plan is in the best interests of both the Preference and Common stockholders. They strongly recommend that all stockholders vote in favor of the Plan.

In order to avoid unnecessary expense or delay, you are urged to execute and return the enclosed Proxy promptly.

Very truly yours,

October 25, 1949.

P. A. Staples
President.

Notice and Proxy Statement

HERSHEY CHOCOLATE CORPORATION

NOTICE OF SPECIAL MEETING

November 22, 1949

A special meeting of stockholders of Hershey Chocolate Corporation will be held November 22, 1949, at the office of the Corporation, 19 East Chocolate Avenue, Hershey, Pennsylvania, at ten o'clock in the forenoon, Eastern Standard Time, for the purpose of acting upon a proposed amendment to Article FOURTH of the Certificate of Incorporation of the Corporation as set forth in Exhibit A to the attached Proxy Statement, which Exhibit A is hereby incorporated by reference. Such amendment has been declared advisable by the Board of Directors.

Only holders of Common Stock and holders of Convertible Preference Stock of record as of the close of business on November 7, 1949 will be entitled to vote.

By Order of the Board of Directors:

L. W. MAJER
Secretary

Dated

October 25, 1949

IMPORTANT: PLEASE GIVE THE ENCLOSED PROXY YOUR IMMEDIATE ATTENTION. It is important that your stock be represented at this special meeting. If you do not expect to be present in person at the meeting, you are requested to date and sign the accompanying form of Proxy, to indicate thereon whether your stock should be voted for or against the proposed amendment, and mail it promptly in the enclosed envelope.

PROXY STATEMENT

This statement is furnished in connection with the solicitation by the management of Hershey Chocolate Corporation (hereinafter called the "Corporation") of proxies for a special meeting of the stockholders to be held at the office of the Corporation, Hershey, Pennsylvania, on Tuesday, the 22nd day of November, 1949, at ten o'clock a.m. (Eastern Standard Time) for the purpose set forth in the notice of special meeting which this proxy statement accompanies.

A stockholder who executes a proxy may revoke it at any time before it is voted. The attendance at the meeting of a stockholder who has given a proxy shall not have the effect of revoking the proxy, unless he shall, in writing, so notify the Secretary of the meeting at any time before the voting of the proxy.

The Corporation has outstanding 253,843 shares of Convertible Preference Stock without par value (herein called "Old Preferred Stock") and 2,057,250 shares of Common Stock without par value.

Each stockholder will be entitled to one vote at the meeting for each share of Old Preferred Stock and/or Common Stock of record in his name at the close of business on November 7, 1949. The affirmative votes of the holders of at least two-thirds of the outstanding Old Preferred Stock and of the holders of at least a majority of the outstanding Common Stock, in person or by proxy, each class voting separately, are necessary to approve the proposal to amend the Certificate of Incorporation in the manner set forth in Exhibit A attached hereto, and upon such approval a certificate of amendment will be filed in the office of the Secretary of State of the State of Delaware and a certified copy thereof will be filed in the office of the Recorder of Deeds of New Castle County, Delaware.

In the opinion of Messrs. Richards, Layton & Finger, DuPont Building, Wilmington, Delaware, and of Messrs. Dunnington, Bartholow & Miller, One Wall Street, New York, N. Y., the proposed amendment upon such approval and such filing will reclassify all Old Preferred Stock into new Series A and Series B Preferred Stock and Common Stock as hereinafter referred to and will be binding upon all holders of Old Preferred Stock and Common Stock, and dissenting stockholders of either class will not have appraisal rights in respect of their stock by reason of the proposed amendment.

PROPOSAL TO AMEND CERTIFICATE OF INCORPORATION

It is proposed to amend Article Fourth of the Certificate of Incorporation in the manner set forth in Exhibit A on pages 27 to 34.

This amendment will authorize a new class of Preferred Stock of the par value of $50 per share, consisting of two series, each ranking on a parity with the other, viz.: 253,843 shares of Series A 4¼% Cumulative Preferred Stock and 253,843 shares of Series B 4½% Cumulative Preferred Stock; will set forth the powers, preferences and rights, and the qualifications, limitations or restrictions thereof, of the respective classes or series of capital stock of the Corporation; will eliminate the existing authorization of the Old Preferred Stock; and will reclassify each share of Old Preferred Stock into one share of Series A 4¼% Cumulative Preferred Stock, one share of Series B 4½% Cumulative Preferred Stock and one share of Common Stock. The two new series of Preferred Stocks are hereinafter sometimes called "Series A 4¼% Preferred Stock" and "Series B 4½% Preferred Stock", respectively.

Exhibit B on pages 35-38 is a copy of Article Fourth of the Certificate of Incorporation as it exists at the present time.

The authorized and outstanding stock capitalization of the Corporation before and after giving effect to the proposed reclassification is shown by the following table*:

Capital Stock	Before Reclassification		After Reclassification	
	Authorized	Outstanding	Authorized	Outstanding
Convertible Preference Stock (Old Preferred Stock); no par value; stated value $50 per sh.; $4 cumulative preferred dividend; $1 additional participating extra dividend	350,000 shs.	253,843 shs.	None	None‡
Series A 4¼% Cumulative Preferred Stock, $50 par value per sh.			253,843 shs.	253,843 shs.
Series B 4½% Cumulative Preferred Stock, $50 par value per sh.			253,843 shs.	253,843 shs.
Common Stock, no par value; stated value 33⅓¢ per sh...............	3,000,000 shs.†	2,057,250 shs.	3,000,000 shs.	2,311,093 shs.

† 761,529 shares reserved for conversion of Old Preferred Stock.

‡ Reclassified into 253,843 shares of Series A 4¼% Preferred Stock, 253,843 shares of Series B 4½% Preferred Stock, and 253,843 shares of Common Stock.

The annual preferred dividend requirements of the Old Preferred Stock outstanding aggregate $1,269,215 of which $1,015,372 is cumulative and $253,843 represents the total extra dividend which must be declared in each year before any dividends may be declared on Common Stock. If the proposed reclassification is effected the annual preferred dividend requirements of the new cumulative Preferred Stock would aggregate $1,110,563,—$539,416 representing those of the Series A 4¼% Preferred Stock and $571,147 the requirements of the Series B 4½% Preferred Stock, each ranking on a parity with the other.

ANALYSIS OF CERTAIN FEATURES OF THE RECLASSIFICATION WHICH WOULD BE EFFECTED BY THE PROPOSED AMENDMENT

The proposed reclassification of each share of Old Preferred Stock into a package of securities consisting of one share of Series A 4¼% Preferred Stock, one share of Series B 4½% Preferred Stock, and one share of Common Stock is hereinafter referred to as the "Reclassification," and such package is hereinafter called the "Reclassification Package."

To aid both classes of stockholders in appraising the effect of the Reclassification on their respective stock holdings, the management presents on pages 3 to 9, inclusive, an analysis* of what it deems the principal effects of the Reclassification, first upon holders of Old Preferred Stock and second upon holders of the Common Stock now outstanding. Such analysis should be supplemented by a reading of the other portions of this proxy statement and of its exhibits.

The terms of the new Preferred Stock, as contrasted with those of the Old Preferred Stock, have been summarized on pages 11-16, to which reference is made.

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* The stock capitalization table shown above as well as the following analysis of certain features of the proposed reclassification, are based on the assumption that no holders of Old Preferred Stock will, between the date of this proxy statement and the effective date of the proposed amendment (if it is adopted), convert their shares into three shares of Common. If any such conversions occur the effect on the stock capitalization table will, in respect of each share converted, be as follows: (*a*) status before reclassification: outstanding shares of Old Preferred Stock reduced by 1, and outstanding shares of Common Stock increased by 3 (with an equivalent reduction in Common shares reserved for conversion); (*b*) status after reclassification: outstanding shares of Series A 4¼% Preferred Stock and outstanding shares of Series B 4½% Preferred Stock each reduced by 1, and outstanding shares of Common Stock increased by 2. Appropriate allowance for the possibility of such changes should be made in reading the analysis.

Certain Features of the Reclassification as Affecting Holders of Old Preferred Stock

Dividend Rights

The holder of one share of Old Preferred Stock now has the right to receive cumulative preferred dividends of $4 per annum plus, in each year when any dividends are declared on the Common (as has been the case in each year starting with 1930), an additional $1 extra dividend, or a total of $5 per annum.

The Reclassification would in effect change the dividend rights of such holder to the right to receive upon the Preferred Stock included in the Reclassification Package annual preferred dividends totaling $4.37½ (all of which would be cumulative) and to receive whatever dividends are hereafter paid on the one share of Common Stock included in the Reclassification Package.

Since the prospective amount of this Common dividend is an important factor in the consideration by holders of Old Preferred Stock of the merits of the Reclassification, the following comments on dividend policy and dividend history of the Corporation may be helpful:

1. The declaration of dividends is a matter for determination by the Board of Directors from time to time in the light of such factors as net profits, the financial condition of the Corporation, its other cash requirements, and the economic outlook. As a result, any dividend policy is subject to recurrent review and dividends may be increased or decreased as in the Board's judgment circumstances indicate. Subject to this general reservation the management does not anticipate that the increase in the number of shares of Common Stock effected by the Reclassification will operate to decrease dividends per share paid on Common. If the Corporation were to continue paying on its Common Stock the same dividends per share paid in 1948, viz., $1.50 regular plus 50¢ extra, the holder of one share of Old Preferred Stock would receive from the Reclassification Package $6.37½ per annum which is $1.37½ more than the $5 now being paid to him.

2. In each year included in the 19-year period (1930-1948, inclusive) the Corporation has paid dividends on its Common Stock, which (after giving retroactive effect to the 3-for-1 split-up of Common Stock effected September 16, 1947) ranged from $1 per share (1934-1935 and 1937-1946) to $2 per share (1932 and 1948), with an average for all years of $1.22 per share. If after the Reclassification such lowest, highest or average amounts of dividends were paid on Common Stock included in the Reclassification Package the annual income from the Reclassification Package would exceed $5 by the amount of 37½¢ for the lowest year, $1.37½ for the highest year, and 59½¢ for the average year.

Inasmuch as the Old Preferred Stock is now convertible into three shares of Common Stock, comparison from a dividend standpoint should also be made between the Reclassification Package and three shares of Common Stock. It will be noted that, in any year in which dividends on Common are $2.18 per share or less the combined preferred and common dividends on the Reclassification Package would exceed the dividends on three shares of Common Stock, and that, in any year in which dividends on Common are $2.19 per share or more the dividends on three shares of Common Stock would exceed the combined dividends on the Reclassification Package by the amount by which the dividends on two shares of Common Stock exceeded $4.37½. In the case of conversions of Old Preferred Stock into Common none of the dividend income thereafter received would be of the cumulative preferential character of that which would be paid on the Preferred Stock included in the Reclassification Package.

The Surrender of Non-Callability

The Old Preferred Stock is non-callable.

Under the Reclassification both series of Preferred Stock in the Reclassification Package would be callable for redemption in whole or from time to time in part, at the option of the Corporation: the Series A 4¼% Preferred Stock at $52.50 until December 31, 1954—such redemption price thereafter scaling down to a minimum of $51 commencing January 1, 1960; and

the Series B 4½% Preferred Stock at $51 (plus, in each case, an amount equal to accrued dividends). From time to time the Corporation may also redeem, pursuant to sinking fund provisions, a limited number of new Preferred shares (not averaging over 2% per annum) at slightly lower sinking fund redemption prices, viz., $51 until December 31, 1953—such price thereafter scaling down to $50 commencing January 1, 1966 (plus, in each case, an amount equal to accrued dividends).

The one share of Common in the Reclassification Package will, like other shares of Common Stock, be non-callable and represent a continuing interest in the Corporation. One of the purposes of issuing this Common Stock is to compensate Old Preferred stockholders for permitting their preferred position to become a redeemable one.

No representation is made as to when or under what conditions the Corporation may avail itself of its option to redeem the new Preferred Stock. The exercise of such privilege, however, would permit the Corporation to effect a substantial reduction in prior charges, thereby increasing earnings per share on its Common Stock (including Common issued to holders of Old Preferred Stock). In this connection see comment under "Prior Charges" on page 7.

Conversion Privilege

Each share of Old Preferred Stock is convertible into three shares of Common. The total number of shares of Common which the Corporation would be required to issue if all holders of Old Preferred Stock were to convert their shares is 761,529—a number which is approximately 37% of the total number of Common shares now outstanding. Of the large industrial corporations the securities of which are listed on the New York Stock Exchange only a few have been found with a comparable relationship between shares reserved for conversion and shares outstanding.

The management believes that the relatively large number of shares subject to issue upon conversion may have acted, and if not corrected may continue to act, as a depressing factor upon the market price of the Common. In other words, the option of conversion held by each holder of Old Preferred Stock may in effect be made less valuable by the overhanging threat of the potential exercise of similar options by each other holder, and the very size of the potential number of shares issuable upon conversion may in itself be a self-defeating factor as far as the value of the conversion privilege is concerned.

The opinion of the management above expressed is believed to be shared by others. The extent to which the overhanging threat of conversion depresses the market for the Common cannot, however, be exactly determined. Of necessity it must remain a matter of conjecture upon which opinions may reasonably differ.

In view of these considerations it is believed by the management to be for the benefit of both classes of its stockholders and of each member thereof that the situation above referred to be resolved, and be resolved in a way which, if approved by the holders of two-thirds of the Old Preferred Stock, would operate for the benefit of and be binding upon all members of that class. This, in effect, is what is proposed by the Reclassification.

The Reclassification in effect automatically converts each share of Old Preferred Stock into the following securities, viz.:

(a) One share of Common Stock (being, in a sense, the first of the three shares of Common Stock into which the holder could at his option convert if the Reclassification were not adopted); plus

(b) One share of Series A 4¼% Preferred Stock of the par value of $50 per share (in lieu of the second share of Common Stock into which such holder could thus convert); plus

(c) One share of Series B 4½% Preferred Stock of the par value of $50 per share (in lieu of the third share of Common Stock into which such holder could thus convert).

The 253,843 shares of Common issued in the Reclassification to holders of Old Preferred Stock as a class are one-third of the 761,529 shares of Common into which all Old Preferred Stock could (except for Reclassification) be converted. Such 253,843 shares would represent approximately 11% of the Common then outstanding, whereas such 761,529 shares would upon their issue represent 27% of the Common then outstanding. In other words, the Reclassification gives to the holders of Old Preferred Stock, as a class, $25,384,300 par value of Preferred Stock plus 40% of the maximum potential *percentage* interest in the Common Stock which (in the absence of Reclassification) they might obtain if through conversion they were to surrender their preferred position completely.

Market Values

The Corporation has been advised by Wertheim & Co. (the investment banking firm which is acting as financial advisor to the Corporation in connection with the proposed Reclassification), and its management believes, that under present-day market conditions for industrial preferred stocks of similar investment character the two shares of new Preferred Stock included in the Reclassification Package should have an aggregate market value of at least $103 (see Exhibit C). This amount, when added to $37, being the closing bid for the Common Stock on the New York Stock Exchange on October 24, 1949 (the day prior to the date of this proxy statement) is $140 which, solely for the purposes of the comparisons made on the following page is taken as the current market value of the securities in the Reclassification Package.

The following table shows the market price range in the transactions on the New York Stock Exchange in the Old Preferred Stock and in the Common Stock for the period indicated. The prices shown for the Common Stock prior to September 16, 1947 have been adjusted to reflect the three-for-one split up thereof effected on that date.

Year	Old Preferred Stock High	Old Preferred Stock Low	Common Stock High	Common Stock Low
1929	143¼	60⅝	47.96	15.00
1930	108¾	83½	36.33	23.33
1931	104	70½	34.58	22.67
1932	83	57	27.67	14.50
1933	90	64¾	24.00	11.71
1934	105⅛	83	24.58	16.17
1935	118	104	27.25	24.42
1936	119	102	26.67	19.62
1937	111	83	22.58	13.08
1938	105½	80	20.00	13.33
1939	115	100	21.83	18.00
1940	115¼	94⅞	22.42	16.67
1941	115	99½	18.92	11.17
1942	102½	79	16.17	10.08
1943	118	100	23.67	16.33
1944	125	114	24.33	21.00
1945	138	123	30.00	24.00
1946	146½	123	35.33	25.33
1947	134	118	38.83	24.67
1948	123½	114	30¾	25¼
1949				
First Quarter	122	116½	29⅞	26⅜
Second Quarter	122	113½	32½	29¾
Third Quarter				
July	118	115	31⅞	30⅝
August	121½	118	35	31¼
September	130	121½	37	33½
Fourth Quarter				
October 1 to 14	129½	126	40	36¾
October 15 to 24	135	133	38	37⅛

In connection with the preceding table of market price quotations it should be mentioned that before the opening of the Exchange on October 15, 1949 a brief public announcement of the prospective submission to stockholders of the proposed Reclassification was made by a news release sent over the Dow-Jones "broad tape".

This current market valuation of the Reclassification Package is in excess of the highest market quotations of the Old Preferred Stock for any prior year except 1946 when its high was \$146.50 and 1929 when its high was \$143.25. It exceeds by \$24 the amount of \$116 which represents the average of the high prices of the Old Preferred Stock for the years 1929-1948, inclusive, and exceeds by \$47.32 the amount of \$92.68 which represents the average of the low prices of the Old Preferred Stock for such years.

Assuming that the market value of the Preferred Stock component of the Reclassification Package remains at \$103, the market value of the entire package would exceed the market value of three shares of Common Stock into which (if the Reclassification were not adopted) the Old Preferred Stock could be converted unless the market value of the Common Stock were to equal or exceed \$51.50 per share. If the market value of the Common were to rise above \$51.50 per share, the value of the entire package would (so long as the Common remained above \$51.50) be less than the value of three shares of Common Stock by the extent to which the market value of two shares of Common Stock exceeded \$103. The foregoing comparison is of course merely the statement of an arithmetical conclusion and does not take into consideration whatever effect the Reclassification itself may have on the market value of the Common Stock.

Miscellaneous Factors Affecting Holders of Old Preferred Stock

There are no sinking fund provisions for the Old Preferred Stock. The amendment will contain the 2% annual cumulative sinking fund provisions more fully described on pages 13 and 14.

The Old Preferred Stock has a liquidation value per books, as of September 30, 1949, of \$95 per share, of which \$50 is preferential to the Common Stock and the remaining \$45 is participating with the Common Stock. The maximum liquidation value of the Old Preferred Stock is \$100 per share, which amount is believed to be its actual liquidation value (as contrasted with book value) at the present time. The voluntary liquidation value of the Series A 4¼% Preferred Stock will be a maximum of \$52.50 and a minimum of \$51, and that of the Series B 4½% Preferred Stock \$51—making the total voluntary liquidation value of the Preferred Stock included in the Reclassification Package a maximum of \$103.50 and a minimum of \$102. The involuntary liquidation value of each such series is \$50, making the total involuntary liquidation value of the Preferred Stock included in the Reclassification Package \$100. (All foregoing liquidation values are plus an amount equal to accrued dividends.) The share of Common Stock included in the Reclassification Package would have an involuntary liquidation value per books, as of September 30, 1949, of \$12.91.

In the absence of Preferred dividend defaults the Old Preferred Stock does not have any ordinary voting power. The Common Stock included in the Reclassification Package will give to the holders of Old Preferred Stock as a class approximately 11% of the ordinary voting power. Upon default in the payment of four quarterly dividends (and continuing until the Corporation shall have cleared up all dividend arrears and declared the dividend for the then current quarterly period) the Old Preferred Stock as a class is entitled to approximately 27% of the voting power for all purposes, whereas, under substantially similar circumstances, the holders of new Preferred Stock will have the right as a class to elect two directors at annual shareholders' meetings.

Rights of holders of new Preferred Stock to a class vote on particular matters are in some respects different from those of holders of Old Preferred Stock. See pages 15 and 16.

In the event of future issues of Common Stock for cash, holders of Old Preferred Stock, as a class, would have the preemptive right to subscribe to approximately 27% of such issues. Under the Reclassification the Common Stock issued to them would give such holders a preemptive right to subscribe to approximately 11% of any such issues but the new Preferred Stock would not itself have preemptive rights. The issue of additional Common Stock for cash is not presently contemplated by the management.

Certain Features of the Reclassification as Affecting Holders of Common Stock Now Outstanding

Prior Charges

Annual Preferred dividend charges ahead of the Common now total $1,269,215, equivalent to 61¢ per share of Common. The Reclassification will reduce total annual Preferred dividend charges to $1,110,563, equivalent to 48¢ per share of Common Stock outstanding after the Reclassification becomes effective.

A factor of even greater importance than the reduction of prior fixed charges effected by the Reclassification itself is the potential ability given to the Corporation to effect further reductions in prior charges through the redemption of the new Preferred Stock. By such redemption the Corporation can reduce prior charges in two ways:

(a) It can obtain a lower net cost of money by refinancing a portion of the new Preferred Stock with short or long-term indebtedness, which indebtedness under present money rates would bear interest substantially lower than 4½% or 4¼% per annum, and under present tax laws such interest would be deductible in the computation of the Corporation's State and Federal income tax. Such refinancing would result in a substantially lower net cost of money in respect of the shares thus refinanced. For example, the management is informed by Wertheim & Co., its financial advisor, that on the basis of money rates presently available and existing income tax laws, the Corporation could effect a saving equivalent to a reduction of at least 30% in the above mentioned annual Preferred dividend charges of $1,110,563, if it were to refinance the Series B 4½% Preferred Stock with long-term debentures. (See Exhibit C.) While the desirability of such debenture refinancing will receive consideration no representation is made, however, that the Corporation will in fact use its credit in this manner.

(b) The Corporation can from time to time apply corporate funds, either pursuant to the requirement of applicable sinking fund provisions, or in addition thereto, to retire Preferred Stock, or the indebtedness with which it may have been refinanced, and by such retirement terminate the annual dividend or interest charges on the securities retired. To the extent that voluntary retirements (i.e. over and above the requirements of applicable sinking fund provisions) can be effected consistently with the financial position of the Corporation and the interests of its stockholders it would be the present disposition of the management to favor such retirements, but no representation is made that voluntary retirements will in fact be made.

In contrast to the power of redemption given to the Corporation by the Reclassification, the Old Preferred Stock is not only non-callable and convertible but is relatively inactive. For these reasons the management does not believe that the retirement of a substantial amount of Old Preferred Stock and the related reduction in preferred dividend charges could be effected on a satisfactory basis by calls for tenders or by open market purchases.

In evaluating the proposed reduction or potential reduction in prior charges effected or afforded by the Reclassification, Common stockholders should, however, bear in mind that the issuance of 253,843 shares of Common Stock to holders of Old Preferred Stock will give to such holders the right as a group to share in approximately 11% of dividends hereafter declared on the Common. At the present time holders of Old Preferred Stock cannot share in Common dividends except upon conversion, which conversion would itself effect a reduction in present preferred charges to the extent of $5 per annum for each share converted.

Earnings Per Share of Common

To ascertain the effect of the Reclassification on earnings per share of Common sufficiently extensive comparisons should be made to indicate such effect under a variety of alternative conditions. The three principal variables to be considered are these:

(a) The assumed total earnings of the Corporation.

(b) The extent to which, if the Reclassification is not adopted, holders of Old Preferred Stock would hereafter exercise their power of converting their shares into three shares of

Common Stock. Since, if the Reclassification is not adopted, the present Common Stock will for the indefinite future continue to be threatened by the dilution which may be effected by such conversions and since no one can estimate with assurance how extensive such conversions might be, the alternatives with which the Reclassification is compared should include not only the Corporation's present capital stock structure (with 2,057,250 shares of Common outstanding subject to $1,269,215 of annual preferred dividend charges, i.e. the status of no conversion) but also such stock structure as it might hereafter be altered by varying degrees of conversion. For the purpose of the comparisons hereinafter made certain percentages of conversion have been arbitrarily selected. Such percentages of conversion, the respective numbers of shares of Common Stock which would be outstanding, and the respective amounts of annual preferred dividend charges to which such Common Stock would be subject, are as follows: 33⅓% (2,311,093 shares; $846,143 charges); 66⅔% (2,564,936 shares; $423,071 charges); and 100% (2,818,779 shares; no charges).

(c) The extent to which the Corporation may hereafter, through the redemption of the new Preferred Stock, reduce annual prior charges under the Reclassification. Thus in the comparisons hereinafter made the Reclassification is shown both on the basis of 100% of its maximum annual prior charges (i.e., $1,110,563) and on the basis of such charges being reduced to 70% thereof (i.e., $777,394). While such percentage of reduction has been arbitrarily selected, it is equivalent to that which it is believed might be effected through the Corporation availing itself of lower net money costs, through refinancing the Series B 4½% Preferred Stock with long term debentures, as referred to in the discussion of "Prior Charges" on page 7. The use of such reduced percentage of charges should not, however, be deemed as a representation that such refinancing will in fact be undertaken.

The table below shows, at various earnings levels, the earnings per share of Common in the absence of Reclassification and the earnings per share in the event of Reclassification, assuming, in the former case, the following percentages of conversion—None, 33⅓%, 66⅔% and 100% and, in the latter case, both 100% and 70% of maximum charges. The earnings levels include four of historical significance taken or computed from the summary of profit and loss on page 10,—$14,968,494* (the earnings of 1947, the highest year); $10,489,231 (the average of the earnings of the three years (1946-1948); $7,048,980 (the average of the earnings of the ten years 1939-1948); and $4,876,038 (the earnings of 1945, the lowest year). In addition, such earnings levels include, in multiples of $2,000,000, a wide range of wholly arbitrary assumptions.

Assumed Levels of Earnings	Earnings per Common Share in the Absence of Reclassification — Extent of Conversion				Earnings per Common Share in the Event of Reclassification (Based on the Following Percentages of Maximum Preferred Dividend Charges)	
Historical *(see above)*	None	33⅓%	66⅔%	100%	100%	70%
$14,968,494*	$6.66	$6.11	$5.67	$5.31	$6.00	$6.14
10,489,231	4.48	4.17	3.92	3.72	4.06	4.20
7,048,980	2.81	2.68	2.58	2.50	2.57	2.71
4,876,038	1.75	1.74	1.74	1.73	1.63	1.77
Arbitrary						
2,000,000	.36	.50	.61	.71	.38	.53
4,000,000	1.33	1.36	1.39	1.42	1.25	1.39
6,000,000	2.30	2.23	2.17	2.13	2.12	2.26
8,000,000	3.27	3.10	2.95	2.84	2.98	3.13
10,000,000	4.24	3.96	3.73	3.55	3.85	3.99
12,000,000	5.22	4.83	4.51	4.26	4.71	4.85
14,000,000	6.19	5.69	5.29	4.97	5.58	5.72
16,000,000	7.16	6.56	6.07	5.68	6.44	6.58
18,000,000	8.13	7.42	6.85	6.39	7.31	7.45

* From this amount the Corporation appropriated $6,000,000 in 1947 to reserve for future inventory price decline.

Those instances indicated in the preceding table wherein the Reclassification, taken on the basis of 100% of its maximum charges or on the basis of 70% of such charges, would result in lower earnings per share of Common than shown by the alternatives with which it is compared merely reflect the cost to the present holders of Common Stock of the benefits afforded them by the Reclassification, including the protection which it gives them against dilution of earnings in those instances wherein the respective alternatives would produce lower earnings per share.

If the Corporation, after the Reclassification is effected, ultimately retires all senior securities the earnings per share of Common under the assumed levels of earnings shown in the above table would in each instance exceed by approximately 34¢ per share those shown in the column at the extreme right of the table. It should be observed, however, that reductions in prior charges effected by the application of corporate funds to the retirement of Preferred Stock (or of indebtedness to refinance the same)—as contrasted with reductions effected through the Corporation availing itself of lower net money costs, are achieved only by the expenditure of funds which, in the cases of the several alternatives with which the Reclassification is above compared, would remain available for the Corporation's business purposes, for dividends on Common Stock, or for the repurchase of Old Preferred Stock, if any, when obtainable on satisfactory terms.

Elimination of Conversion Privilege of Old Preferred Stock

Upon the Reclassification becoming effective and the issuance to holders of Old Preferred Stock of the 253,843 shares of Common Stock provided by the Reclassification, the Common Stock then outstanding will no longer be subject to whatever depressing effect may have previously existed upon the market price by reason of the overhanging threat of conversion. This feature of the Reclassification provides an intangible benefit which, taken with other benefits herein referred to, makes the Reclassification desirable, in the opinion of the management, from the standpoint of the present Common stockholders.

Flexibility of Capital Structure

If the Reclassification is effected the Corporation will then have a Preferred Stock capital structure which, by reason of its callability, will provide the requisite flexibility to meet any unforeseen future contingency. If the Reclassification is not adopted the Corporation will continue to be confronted with a non-callable convertible preferred stock capital structure the potential disadvantages of which, in the case of unforeseen contingencies, cannot be appraised.

Miscellaneous Factors Affecting Holders of Common Stock

The payment of dividends on Common Stock will, in the event of Reclassification, be conditioned on compliance by the Corporation with the 2% annual cumulative sinking fund provisions for the benefit of the new Preferred Stock as referred to on pages 13 and 14. In the event that a portion of the new Preferred Stock is refinanced with debentures the payment of such dividends would also be conditioned upon the Corporation meeting the sinking fund and other requirements of such debenture issue.

The Reclassification will lower the involuntary liquidation value of the Common Stock per books, as of September 30, 1949, from $15.09 to $12.91.

Attention is directed to other miscellaneous features of the Reclassification referred to in the last four paragraphs on page 6.

The management estimates that the Reclassification, immediately upon becoming effective, will increase by approximately 5,000 the number of holders of record of the Corporation's Common Stock. This estimate gives effect to the elimination of Old Preferred stockholders of record who are already holders of record of Common Stock. The management believes that such increase should improve the marketability of the Common Stock.

SUMMARY OF PROFIT AND LOSS

The following is a summary statement of profit and loss of the Corporation for the ten years and nine months ended September 30, 1949. This summary should be read in conjunction with the financial statements of the Corporation, the notes thereto, and the opinion of Arthur Andersen & Co., included herein.

Year	Net Sales	Costs and Expenses	Other Income (Net)	Profit Before Provision for Taxes on Income	Provision for Taxes on Income	(2) Net Profit
	(000's omitted)					
1939	$ 39,846	$ 32,125	$ 72	$ 7,793	$ 1,560	$ 6,233
1940	44,180	35,984	(7)	8,189	2,107	6,082
1941	55,505	45,901	22	9,626	3,610	6,016
1942	60,970	50,122	(14)	10,834	5,747	5,087
1943	65,915	53,488	64	12,491	7,206	5,285
1944	80,162	65,907	224	14,479	9,036	5,443
1945	71,241	58,819	(88)	12,334	7,458	4,876
1946	77,222	63,395	166	13,993	5,497	8,496
1947	120,658	95,710	160	25,108	10,140	(3) 14,968
1948	168,566	(1) 153,450	108	15,224	7,221	8,003
Nine months ended September 30, 1949	101,993	(1) 87,824	152	14,321	4,300	10,021

( ) Denotes deduction

NOTES: 000's included in following notes:

(1) Includes write-downs of inventories to lower of cost or market and provision for loss on purchase commitments. See Note 10 to financial statements.

(2) The net profits previously reported for the years 1940 to 1944 inclusive have been revised to give effect to a net credit to earned surplus in 1945 aggregating $232,678 applicable to such years.

(3) From this amount the Corporation appropriated $6,000,000 to reserve for future inventory price decline and transferred the balance of $8,968,494 to earned surplus.

The most important component of the Corporation's costs is the cost of cocoa beans, the market price of which—particularly in recent years—has been subject to wide fluctuations. It is the best judgment of the management that, apart from losses, if any, which may be encountered from inventory and commitment price declines (particularly in cocoa beans), the present outlook for profits for the fourth quarter of 1949 is favorable.

COMPARATIVE DESCRIPTION
of
OLD PREFERRED STOCK
and the
NEW PREFERRED STOCK
and
COMMON STOCK

The following is a brief description of certain of the powers, preferences and rights, and the qualifications, limitations or restrictions thereof, of the capital stocks of the Corporation before and after giving effect to the proposed amendment of Article FOURTH. For a complete statement of such powers, preferences, rights, qualifications, limitations or restrictions reference is made to Exhibits B and A, respectively, and all statements herein regarding such subjects are qualified in their entirety by such reference. The following statements relate only to the provisions of Article FOURTH, before or after the proposed amendment, as the case may be, and not to applicable statutes.

Old Preferred Stock and Common Stock under present Article Fourth	*Preferred Stock and Common Stock under proposed amendment of Article Fourth*

DIVIDENDS

Old Preferred Stock

Each share of Old Preferred Stock is entitled, in preference to the Common Stock, to receive cumulative preferential dividends at the rate of \$4 per share per annum, and is also entitled to receive an extra dividend of \$1 per share in each year in which any dividend is declared on the Common Stock.

Preferred Stock

The Series A 4¼% Preferred Stock and Series B 4½% Preferred Stock will rank on a parity with each other as to dividends, such series being entitled, in preference to the Common Stock, to receive cumulative preferential dividends in the respective amounts of \$2.12½ and \$2.25 per share per annum. The aggregate amount of any unpaid preferential dividends accrued on the Old Preferred Stock to the effective date of the proposed amendment must also be paid, or declared and set apart for payment, *pro rata* to holders of the new Preferred Stock before dividends may be paid on the Common Stock.

Common Stock

After regular dividends shall have been paid on the Old Preferred Stock for all previous dividend periods, and after declaring and setting aside a sum for the payment of the full regular quarterly dividend for the then current dividend period, then, out of any remaining surplus or net profits dividends may be declared on the Common Stock subject to the payment (in each year in which any dividend is declared on the Common Stock) of the extra dividend of \$1 a share on the Old Preferred Stock above referred to.

(*Exhibit B, Paragraph XII*)

Common Stock

When the Corporation shall have paid in full preferential dividends on the Preferred Stock for all previous quarterly dividend periods, and full preferential dividends on the Preferred Stock for the current quarterly dividend period have been declared, and the Corporation shall have complied with any applicable sinking fund provisions (as hereinafter referred to) dividends may be paid on Common Stock out of any assets legally available for the purpose

(*Exhibit A, Sections 3 and 4*)

Old Preferred Stock and Common Stock under present Article Fourth	*Preferred Stock and Common Stock under proposed amendment of Article Fourth*

LIQUIDATION PREFERENCES OR RIGHTS

(In addition to an amount equal to accrued preferential dividends)

On any distribution of capital assets (voluntary or involuntary) each share of Old Preferred Stock is entitled, in preference to the Common Stock, to the sum of $50, and also participates with the Common Stock in any distributable balance (each share of Old Preferred Stock receiving three aliquot parts of such balance and each share of Common Stock one aliquot part thereof), provided that the maximum additional amount to which the Old Preferred Stock is entitled on such participation is $50.

(*Exhibit B, Paragraphs XIII and XXII*)

As hereinafter noted, each share of Old Preferred Stock is convertible into three shares of Common Stock. No representation is made as to whether, if the proposed amendment were not adopted and the Corporation were liquidated, the holders of Old Preferred Stock might increase their liquidating value over $100 per share by converting their Old Preferred Stock into Common Stock, such possibility being dependent upon the amount available for distribution to stockholders and the extent, if any, to which holders of Old Preferred Stock were to exercise their conversion privilege prior to liquidation.

In the event of any liquidation, dissolution or winding up of the Corporation, the holders of Preferred Stock are entitled, in preference to the holders of Junior Stock, to receive the following amounts per share, each series ranking on a parity with the other:

Involuntary Liquidation:

$50, irrespective of series.

Voluntary Liquidation:

(a) Series A 4¼% Preferred Stock: $52.50 until December 31, 1954; in the five succeeding years, $52.25, $52, $51.75, $51.50 and $51.25, respectively; commencing January 1, 1960 $51; *(b)* Series B 4½% Preferred Stock: $51.

The Common Stock will be entitled to receive *pro rata* any distributable balance over and above the liquidating preferences of the Preferred Stock as set forth above.

(*Exhibit A, Section 5*)

REDEMPTION PROVISIONS

The Old Preferred Stock is non-callable.

Optional Redemption

The whole or any part of the Preferred Stock of either or both series may, unless preferential dividends on Preferred Stock not then to be redeemed are in arrears, be redeemed at the option of the Corporation at any time or from time to time at the redemption prices (hereinafter called "*Optional Redemption Prices*"), viz., equal to the following amounts per share:

(a) Series A 4¼% Preferred Stock, $52.50 until December 31, 1954; in the five succeeding years, $52.25, $52, $51.75, $51.50 and $51.25, respectively; commencing January 1, 1960 $51;

(b) Series B 4½% Preferred Stock, $51

plus in each case an amount equal to accrued dividends.

Redemption for Sinking Fund Purposes

The Preferred Stock is also subject to redemption for sinking fund purposes (See the section "*Sinking Fund Provisions*" below) at the follow-

Old Preferred Stock and Common Stock under present Article Fourth	*Preferred Stock and Common Stock under proposed amendment of Article Fourth*
	ing redemption prices (hereinafter called *"Sinking Fund Redemption Prices"*) per share: $51 if the redemption date is on or before December 31, 1953; $50.75 if the redemption date is thereafter and on or before December 31, 1957; $50.50 if the redemption date is thereafter and on or before December 31, 1961; $50.25 if the redemption date is thereafter and on or before December 31, 1965; and $50 thereafter; plus an amount equal to accrued dividends. (*Exhibit A, Section 6*)

SINKING FUND PROVISIONS

None.	Each series of Preferred Stock is entitled to the benefit of sinking fund provisions briefly summarized below. Assuming the proposed amendment becomes effective in 1949, such provisions become operative January 1, 1951 and after that date the Corporation shall not pay dividends on or purchase Junior Stock unless the Corporation shall have acquired or shall have called for redemption (whether at the Optional Redemption Price or the Sinking Fund Redemption Price) a cumulative number of shares of each series equal to 2% of the largest number of such shares theretofore originally issued, in respect of the year 1950 and in respect of each subsequent calendar year preceding the year in which the proposed dividend on or purchase of Junior Stock is to be made. The Corporation is not required to apply for sinking fund purposes shares which have been purchased or which have been redeemed at the Optional Redemption Price unless the Corporation at its option elects to so apply such shares, and in any year starting with 1950 may redeem at the Sinking Fund Redemption Price such number of shares as shall be needed to meet that portion of the cumulative sinking fund requirements for the following year not already met by redemptions at Sinking Fund Redemption Prices or by previous purchases or optional redemptions applied for sinking fund purposes. Shares redeemed at Sinking Fund Redemption Prices and shares the purchase or optional redemption of which has been applied to meet sinking fund requirements, may not be resold or reissued. Note: Until December 31, 1953 the Sinking Fund Redemption Price of the Series B 4½%

Old Preferred Stock and Common Stock under present Article Fourth	*Preferred Stock and Common Stock under proposed amendment of Article Fourth*
	Preferred Stock is identical with the Optional Redemption Price thereof, i.e., $51 plus an amount equal to accrued dividends. Because of this identity, express provision is made that any redemptions of Series B stock on or before December 31, 1953 at $51 plus an amount equal to accrued dividends shall be deemed to have been made at the Optional Redemption Price thereof. (*Exhibit A, Section 8*)

CONVERSION AND PREEMPTIVE RIGHTS

The Old Preferred Stock is convertible at any time into three shares of Common Stock, such conversion privilege being protected against dilution upon the issuance of Common Stock either as a stock dividend or in subdivision of previously outstanding shares or for labor or services. (*Exhibit B, Paragraphs XIV and XXII*)	The Preferred Stock will not be convertible and will have no preemptive rights.
The holders of Old Preferred Stock and the holders of Common Stock have the right to subscribe, ratably with each other but on the basis of three rights for each share of Old Preferred Stock as against one right for each share of Common Stock, to any shares of Common Stock issued by the Corporation for cash and to any securities convertible into Common Stock; but, except as aforesaid, shall have no preemptive subscription rights. (*Exhibit B, Paragraphs XVII and XXII*)	The Common Stock shall have the right to subscribe, share and share alike, to additional shares of Common Stock which may be issued for cash and to any securities convertible into Common Stock, but except as aforesaid no holder of Common Stock shall have preemptive subscription rights. (*Exhibit A, Section 13*)

VOTING RIGHTS

(Other than rights to a class vote on particular matters)

Whenever the regular quarterly dividends on the Old Preferred Stock shall be in arrears equal to or exceeding $4 a share, such stock has the right to receive notice of all meetings of stockholders, and has for all purposes full voting rights with the Common Stock, on the basis of three votes for each share of Old Preferred Stock and one vote for each share of Common Stock, such voting rights continuing until all unpaid regular dividends accumulated thereon have been paid or declared. Except as above provided, or as referred to below in the section *"Rights to a Class Vote on Particular Matters"* or except as by law expressly provided, the Old Preferred Stock has no voting rights. (*Exhibit B, Paragraphs XV and XXII*)	If at any time preferential dividends on any Preferred Stock are in arrears in an amount equal to four quarterly dividends thereon (whether consecutive or not) and continuing until there shall have been declared all accrued and unpaid preferential dividends for the current and all prior quarterly dividend periods, the holders of Preferred Stock, voting separately as a class, irrespective of series, shall be entitled to receive notices of annual meetings of stockholders and at annual meetings (including adjournments thereof) to elect two directors. For the purposes of such election the holders of record of one-third of the outstanding Preferred Stock, present in person or represented by proxy, shall constitute a quorum, and upon failure of such quorum such two directors may, under certain conditions, be elected by the holders

Old Preferred Stock and Common Stock under present Article Fourth	*Preferred Stock and Common Stock under proposed amendment of Article Fourth*
	of Junior Stock as if there were no dividend default. Except as above provided, or as referred to below under the caption *Rights to a Class Vote on Particular Matters* or except as otherwise provided by law the holders of Preferred Stock shall have no voting rights or powers nor any right to receive notices of stockholders' meetings. (*Exhibit A, Section 10*)

RIGHTS TO A CLASS VOTE ON PARTICULAR MATTERS

Paragraphs XVI and XVIII of the present Article Fourth provide as follows (the term *"Convertible Stock"* where used referring to the Old Preferred Stock).

"XVI. So long as any of the Convertible Stock remains outstanding, the Corporation shall not sell, convey, assign, transfer, lease, exchange or otherwise dispose of its properties and assets as an entirety, or substantially as an entirety, unless such sale, conveyance, assignment, transfer, lease, exchange or other disposal be authorized by the affirmative vote, or the written consent, of the holders of record of a majority of the issued and outstanding Convertible Stock, anything in this Certificate of Incorporation contained to the contrary notwithstanding; and the Convertible Stock shall at all times have the right to vote, as a class, in any proceedings relative to any such sale, conveyance, assignment, transfer, lease, exchange or other disposal of properties or assets."

"XVIII. So long as any of the Convertible Stock remains outstanding, none of the provisions of paragraphs XII to XVII hereof,* inclusive, or of this paragraph XVIII, shall at any time be changed, amended or repealed, unless such change, amendment or repeal be authorized by the vote of two-thirds in interest of the Convertible Stock then outstanding; and the Convertible Stock shall at all times have the right to vote, as a class, in

Matters Requiring 2/3rds Vote of Preferred Stock

Section 11 of the proposed amended Article Fourth provides, in substance, that the written consent or approving vote, in person or by proxy, of holders of at least two-thirds of outstanding Preferred Stock (irrespective of series except as hereinafter mentioned) is required for the following:

(*a*) Amendment, repeal or addition to any provision of the Certificate of Incorporation changing the preferences, special rights or powers of the Preferred Stock so as to affect the Preferred Stock adversely.

(*b*) Authorization of a new prior preferred stock or securities convertible into the same.

(*c*) Reclassification of any Junior Stock into Preferred Stock or into any other stock prior thereto or on a parity therewith.

(*d*) The voluntary dissolution, liquidation or winding up of the Corporation.

(*e*) The sale, lease or conveyance (except to one or more corporations all of the capital stock of which, other than directors' qualifying shares, is owned by the Corporation) of all or substantially all of the assets of the corporation, provided, however, that the execution and delivery of a mortgage, deed of trust, or instrument of pledge, covering all

Old Preferred Stock
and
Common Stock
under present Article Fourth

any proceeding relative to any such change, amendment or repeal."

* *For the text of the particular paragraphs referred to see Exhibit B.*

Comment: The provisions of paragraph XVIII of the present Article FOURTH, *as well as the provisions of Sections 11 and 12 of the proposed amendment of Article* FOURTH, *should be read in connection with paragraph (o) of Article* EIGHTH *of the original Certificate of Incorporation, which paragraph reads as follows:*

"(o) Subject to the provisions (if any) of this Certificate of Incorporation, or of any amendment thereto, the Corporation reserves the right to amend, alter, change, add to or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute; and all rights herein conferred on officers, directors and stockholders are granted subject to this reservation."

Preferred Stock
and
Common Stock
under proposed amendment of Article Fourth

or substantially all of the assets of the Corporation is not to be deemed a sale or conveyance thereof.

(*f*) The merger or consolidation of the corporation, except under circumstances where the Preferred Stock retains or receives substantially identical or similar securities.

If the action described in the foregoing paragraph (*a*) would affect adversely Preferred Stock of less than all series, such action shall require the consent of the holders of at least two-thirds of the shares of such series only as may be so affected.

(*Exhibit A, Section 11*)

Matters Requiring Majority Vote of Preferred Stock

Section 12 of the proposed amended Article Fourth requires in substance that the Corporation shall not without the written consent or approving vote, in person or by proxy, of the holders of at least a majority of the shares of outstanding Preferred Stock of each series increase the authorized amount of Preferred Stock of either or both series, or authorize or create, or increase the authorized amount of, any other stock on a parity with the Preferred Stock.

(*Exhibit A, Section 12*)

MISCELLANEOUS

The term *"Junior Stock"* means Common Stock of the Corporation and any other class of stock of the Corporation the preferential rights of which as to dividends and upon liquidation, dissolution or winding up of the Corporation are subordinate to those of the Preferred Stock.

Prohibitions on the payment of dividends on Junior Stock or the purchase of Junior Stock in the event of an existing failure to pay or declare dividends on Preferred Stock or to comply with applicable sinking fund provisions do not operate to prohibit (*a*) the payment of dividends consisting solely of Junior Stock; (*b*) the acquisition of Junior Stock through the issuance of other Junior Stock therefor; or (*c*) the purchase, redemption or other acquisition of Junior Stock by the Corporation made substantially simultaneously with the issuance of other Junior Stock and by the application of a sum not greater than the net proceeds received from such issuance of other Junior Stock.

(*Exhibit A, Section 4*)

Security Holdings of Directors and Officers and of Hershey Trust Company As Trustee for The Hershey Industrial School

The management is advised that as of October 14, 1949 Hershey Trust Company, as Trustee for The Hershey Industrial School, was the direct or indirect beneficial owner of 1,584,363 shares of Common Stock (or 77% of the amount thereof outstanding) and 21,119 shares of Old Preferred Stock (or 8.3% of the amount thereof outstanding).

Directors and officers of the Corporation have stated that as of October 14, 1949 they beneficially owned shares of outstanding stock of the Corporation in the amounts indicated in the table below:

Name	Position	Old Preferred Stock	Common Stock
J. J. Gallagher*	Director, General Sales Manager		200
P. N. Hershey*	Director, Director of Milk Purchases	350	600
S. F. Hinkle*	Director & Plant Manager		200
L. W. Majer	Director, Assistant to the President, & Secretary		300
W. E. Schiller	Director, Treasurer, & Comptroller		250
P. A. Staples*	Director, Chairman & President	20	798
D. Paul Witmer*	Director		100

* Also directors of Hershey Trust Company, of which P. A. Staples is President and D. Paul Witmer is Vice-President.

Financial Information

The following financial statements of the Corporation, certified by Messrs. Arthur Andersen & Co., Certified Public Accountants, are included herein:

Balance sheet as of September 30, 1949

Statements of profit and loss for the three years and nine months ended September 30, 1949

Statements of surplus for the three years and nine months ended September 30, 1949

Summary of profit and loss for the ten years and nine months ended September 30, 1949

Further financial statements of the Corporation are on file with the New York Stock Exchange and at the office of the Securities and Exchange Commission in Washington, D. C.

Other Matters

In the event of the adoption of the proposed amendment the Board of Directors in connection with the Reclassification will transfer $12,776,764.33 from earned surplus to capital stock account (see note 9 to Financial Statements).

Application will be made to list the Series A 4¼% Preferred Stock and the Series B 4½% Preferred Stock and the additional Common Stock on the New York Stock Exchange.

In the opinion of Dunnington, Bartholow & Miller, New York, N. Y., of counsel for the Corporation, the Reclassification of Old Preferred Stock into the securities contained in the Reclassification Package will not involve the realization by holders of Old Preferred Stock or of Common Stock of a taxable gain or loss under present Federal income tax laws.

Wertheim & Co., New York, N. Y., investment bankers, have acted as financial advisor to the Corporation in the formulation of the proposed Reclassification and will receive from the Corporation a fee for their services of $62,500 and will be reimbursed for out-of-pocket expenses estimated at $5,000.

The enclosed proxy is worded so as to permit each stockholder to specify whether it shall be voted in approval or disapproval of the proposal upon which action of stockholders is sought as specified in this Proxy Statement. All properly executed proxies received by the management will be voted in accordance with the specification made in the Proxy. Unless otherwise specified in the space provided in the Proxy, all proxies received by the management will be voted in favor of such proposal.

The management does not intend to bring any other matters before the meeting. However, if any other matters properly come before the meeting, it is the intention of the persons named in the accompanying form of proxy to vote the proxies in accordance with their best judgment on such matters.

The Corporation will bear the cost of solicitation of proxies. In addition to the use of the mails, proxies may be solicited personally, by telephone or by telegraph and the Company may pay persons holding stock for others for their expenses in sending proxies and proxy material to their principals. In addition, the Corporation has retained Georgeson & Co., New York, N. Y., to assist in the solicitation of proxies from persons who are holders of Common Stock and of Old Preferred Stock; that firm will receive a fee of $7,500 for such services, plus expenses and disbursements which, it is estimated, will not exceed $12,500; and approximately 50 persons employed by that firm will be engaged for limited periods in soliciting proxies.

October 25, 1949.

CERTIFICATE OF INDEPENDENT PUBLIC ACCOUNTANTS

We have examined the balance sheet of Hershey Chocolate Corporation (a Delaware corporation) as of September 30, 1949, the related statements of profit and loss and surplus for the three years and nine months then ended, and the summary statement of profit and loss for the ten years and nine months ended September 30, 1949, which statement is included in this proxy under the heading "Summary of Profit and Loss". Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying balance sheet and statements of profit and loss and surplus present fairly the financial position of Hershey Chocolate Corporation as of September 30, 1949 and the results of its operations for the three years and nine months then ended; the summary statement of profit and loss referred to above presents fairly a summary of the results of operations of the Corporation for the ten years and nine months ended September 30, 1949; and all were prepared in conformity with generally accepted accounting principles consistently applied during the period under review.

Arthur Andersen & Co.

New York, N. Y.,
October 20, 1949.

HERSHEY CHOCOLATE CORPORATION

Balance Sheet—September 30, 1949

ASSETS

Current Assets:

Cash		$ 7,857,007.17	
United States Government securities, at cost		4,487,959.00	$12,344,966.17
Accounts receivable—			
Trade	$9,548,259.45		
Other	368,513.98	$ 9,916,773.43	
Less—Reserve for doubtful accounts and discounts		454,983.10	9,461,790.33
Inventories (lower of average cost or market) (Note 1)—			
Raw materials		$15,247,879.85	
Goods in process		5,110,099.78	
Finished goods		7,996,654.93	
Manufacturing supplies		657,521.77	29,012,156.33
Prepaid insurance, taxes, etc.			341,441.72
Total current assets			$51,160,354.55

Plant and Property (Notes 2 and 3):

	Cost	Reserves for Depreciation	Net	
Land	$ 117,579.23	$ —	$ 117,579.23	
Buildings and improvements	9,975,262.41	5,519,751.27	4,455,511.14	
Machinery and equipment	16,671,299.85	10,069,012.57	6,602,287.28	
Construction in progress	1,600,010.24	—	1,600,010.24	
	$28,364,151.73	$15,588,763.84	$12,775,387.89	12,775,387.89
				$63,935,742.44

Reference is made to the accompanying notes to financial statements.

HERSHEY CHOCOLATE CORPORATION

Balance Sheet—September 30, 1949

LIABILITIES

Current Liabilities:		
Accounts payable		$ 1,525,469.00
Accrued liabilities		623,968.51
Reserve for Federal and state taxes		6,322,786.39
Reserve for loss on purchase commitments		240,000.00
Total current liabilities		$ 8,712,223.90
Capital Stock and Surplus (Notes 4, 5 and 9):		
Convertible preference stock (without par value)—		
Authorized—350,000 shares		
Issued—332,493 shares of which 78,650 shares have been converted into common stock; outstanding 253,843 shares stated at $50 per share	$12,692,150.00	
Common stock (without par value)—		
Authorized—3,000,000 shares of which 761,529 shares are reserved for conversion of convertible preference stock		
Issued and outstanding—2,057,250 shares stated at	685,750.00	
Reserve for future inventory price decline appropriated from 1947 profits	6,000,000.00	
Earned surplus (see statement)	35,845,618.54	55,223,518.54
		$63,935,742.44

Reference is made to the accompanying notes to financial statements.

HERSHEY CHOCOLATE CORPORATION

Statements of Profit and Loss

For the Three Years and Nine Months Ended September 30, 1949

	Year Ended December 31, 1946	1947	1948	Nine Months Ended September 30, 1949
Gross Sales (Less discounts, returns and allowances)	$77,221,653.64	$120,658,759.24	$168,566,255.98	$101,992,424.97
Costs and Expenses (Note 3):				
Costs and expenses exclusive of items set forth below (Note 1)	$56,230,206.69	$ 86,433,583.92	$132,945,498.32	$ 74,243,037.99
Write-down of inventory to lower of cost or market	—	—	4,107,089.00	3,333,407.00
Provision for loss on purchase commitments (Note 10)	—	—	3,750,000.00	240,000.00
Shipping expense	3,750,110.05	4,999,973.60	7,619,640.95	5,795,331.93
Selling, administrative and general expense	1,808,331.75	2,269,529.68	2,655,540.97	2,141,187.66
Repairs and maintenance	455,829.11	642,999.35	1,034,006.07	966,655.70
Provision for depreciation	617,531.21	643,287.60	676,553.17	552,584.93
Taxes other than income taxes	430,854.82	569,725.88	661,787.56	511,836.24
Provision for doubtful accounts	101,829.15	151,200.00	—	40,000.00
	$63,394,692.78	$ 95,710,300.03	$153,450,116.04	$ 87,824,041.45
	$13,826,960.86	$ 24,948,459.21	$ 15,116,139.94	$ 14,168,383.52
Other Income (Net)	166,349.49	160,034.62	108,206.50	152,137.14
	$13,993,310.35	$ 25,108,493.83	$ 15,224,346.44	$ 14,320,520.66
Provision for Income Taxes:				
Federal	$ 5,159,797.90	$ 9,525,000.00	$ 6,788,000.00	$ 4,030,000.00
Commonwealth of Pennsylvania	337,659.91	615,000.00	433,000.00	270,000.00
	$ 5,497,457.81	$ 10,140,000.00	$ 7,221,000.00	$ 4,300,000.00
Net profit for the period	$ 8,495,852.54	$ 14,968,493.83	$ 8,003,346.44	$ 10,020,520.66

TRANSFERRED TO EARNED SURPLUS

	1946	1947	1948	Nine Months Ended September 30, 1949
Net Profit for the Period	$ 8,495,852.54	$ 14,968,493.83	$ 8,003,346.44	$ 10,020,520.66
Less — Appropriation to reserve for future inventory price decline	—	6,000,000.00	—	—
Transferred to Earned Surplus	$ 8,495,852.54	$ 8,968,493.83	$ 8,003,346.44	$ 10,020,520.66

Sales, profits, etc. for the nine months ended September 30, 1949 are not necessarily indicative of the amounts of such items for the full year.

Reference is made to the accompanying notes to financial statements.

HERSHEY CHOCOLATE CORPORATION

Statements of Surplus

For the Three Years and Nine Months Ended September 30, 1949

	Year Ended December 31, 1946	Year Ended December 31, 1947	Year Ended December 31, 1948	Nine Months Ended September 30, 1949
EARNED SURPLUS				
Balance at beginning of period	$28,520,971.63	$23,691,370.65	$25,256,133.84	$29,154,895.12
Balance of net profit for the period transferred to earned surplus (after appropriation of $6,000,000 in 1947 to reserve for future inventory price decline)	8,495,852.54	8,968,493.83	8,003,346.44	10,020,520.66
	$37,016,824.17	$32,659,864.48	$33,259,480.28	$39,175,415.78
Deduct:				
Cash dividends declared (Note 8)	$ 3,326,467.00	$ 4,526,532.95	$ 4,104,585.16	$ 3,329,797.24
Portion of charge to increase from $1.00 per share to $50.00 per share the stated amount of convertible preference stock without par value, pursuant to action of the Board of Directors (see surplus at organization)	9,998,986.52	—	—	—
Charge resulting from retirement of convertible preference and common treasury stock, representing excess of cost of the treasury shares over the capital represented thereby	—	2,877,197.69	—	—
	$13,325,453.52	$ 7,403,730.64	$ 4,104,585.16	$ 3,329,797.24
Balance at end of period	$23,691,370.65	$25,256,133.84	$29,154,895.12	$35,845,618.54

SURPLUS AT ORGANIZATION

	1946	1947	1948	Nine Months Ended September 30, 1949
Balance at beginning of period	$ 3,297,212.48	$ —	$ —	$ —
Portion of charge to increase from $1.00 per share to $50.00 per share the stated amount of convertible preference stock without par value, pursuant to action of the Board of Directors (see earned surplus)	3,297,212.48	—	—	—
Balance at end of period	$ —	$ —	$ —	$ —

Reference is made to the accompanying notes to financial statements.

HERSHEY CHOCOLATE CORPORATION

Notes to Financial Statements

For the Three Years and Nine Months Ended September 30, 1949

(1) Inventories at the beginning and end of the periods covered by the statements of profit and loss were as follows:

December 31, 1945	$17,595,539.74
December 31, 1946	16,760,295.06
December 31, 1947	27,508,055.53
December 31, 1948	31,276,307.76
September 30, 1949	29,012,156.33

(2) The amount at which plant and property is stated does not purport to be present replacement cost or realizable value.

(3) The Corporation follows the policy of providing annual depreciation on gross book values of the various classes of property by the straight-line method, using rates based upon the estimated useful lives of the properties. With respect to the major part of machinery and equipment, depreciation is provided on the basis of composite rates of 3½% and 4%. Depreciation is provided on all other facilities by application of various rates to individual items or groups of items, rates of 2% to 5% being used for major items of buildings. No depreciation is provided on fully depreciated property still in use.

At the time properties are retired or otherwise disposed of, the reserve for depreciation is charged with the accumulated depreciation applicable thereto, the difference between the cost and the accumulated reserve being carried to the income account, except that upon normal retirements of items for which the composite rates are used the cost, less salvage value, is charged to the depreciation reserve.

Maintenance and repairs together with minor replacements are charged to costs and expenses as incurred.

(4) The Corporation reports that it has certain trade-marks, goodwill and possibly other intangible assets the values of which have not been determined as it has not been the policy of the Corporation to record any value on its books for such intangible assets.

(5) The convertible preference stock of the Corporation is entitled to receive, upon any distribution of capital assets, $50 per share and accumulated and unpaid dividends (if any) before any distribution to the common stock, and to participate with the common stock in any distribution of the balance, on the basis of three aliquot shares for each share of convertible preference stock to one aliquot share for each share of common stock, until the convertible preference stock shall have received the further sum of $50 per share. The convertible preference stock is entitled to cumulative dividends at the rate of $4 per share per annum, plus an additional dividend of $1 per share in any year in which dividends are declared on the common stock.

(6) The amount of profit or loss on transactions with affiliated companies, included in the accompanying statement of profit and loss, is not significant.

(7) Contingent liabilities are not believed by the management to involve any substantial liability not already provided for in the balance sheet.

Notes to Financial Statements — Continued

(8) Dividends declared and paid in each of the periods shown in the accompanying statement ot earned surplus were as follows:

	Convertible Preference Stock		Common Stock	
	Declared	Paid	Declared	Paid
Total amount:				
Year ended December 31—				
1946	$1,269,220.00	$1,269,220.00	$2,057,247.00	$2,057,247.00
1947	1,269,218.00	1,269,218.00	3,257,314.95	3,000,157.95
1948	761,529.00	1,269,215.00	3,343,056.16	4,114,524.91
Nine months ended September 30, 1949	1,015,372.00	1,015,372.00	2,314,425.24	2,314,425.24
Per share:				
Year ended December 31—				
1946	$5.00	$5.00	$1.00*	$1.00*
1947	5.00	5.00	1.58*	1.458*
1948	3.00**	5.00	1.625**	2.00
Nine months ended September 30, 1949	4.00	4.00	1.125	1.125

* Stated on the basis of the number of shares outstanding after the three-for-one common stock split in September 1947.

** In 1948 the Corporation adopted the policy of paying dividends in the same year that the dividends are declared, and therefore the dividends paid in February 1949 ($2.00 per share on convertible preference stock and $.37½ per share on common stock) were not declared until January, 1949. Under the previous policy such dividends would have been declared at the close of 1948.

(9) In the event that the reclassification of the capital stock of the Corporation as set forth on page 2 of this proxy statement is approved by the stockholders, the effect thereof on the balance sheet of the Corporation at September 30, 1949 would be as follows:

	Before Reclassification	After Reclassification
Convertible preference stock, without par value—253,843 shares outstanding, stated at $50 per share	$12,692,150.00	$ —
Cumulative preferred stock, par value $50 per share:		
Series A, 4¼%—253,843 shares outstanding	—	12,692,150.00
Series B, 4½%—253,843 shares outstanding	—	12,692,150.00
Common stock, without par value:		
2,057,250 shares outstanding, stated at $.33⅓ per share	685,750.00	—
2,311,093 shares outstanding, stated at $.33⅓ per share	—	770,364.33
Reserve for future inventory price decline	6,000,000.00	6,000,000.00
Earned surplus	35,845,618.54	23,068,854.21
	$55,223,518.54	$55,223,518.54

(10) The provisions of $3,750,000 and $240,000 for losses on purchase commitments, shown in the statements of profit and loss for the year 1948 and the nine months ended September 30, 1949, respectively, represent the total losses on purchase commitments less credit for an amount equivalent to the estimated reductions in income taxes when such losses are deductible for tax purposes.

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EXHIBIT A

PROPOSED AMENDMENT

of

ARTICLE FOURTH

Article Fourth of the Certificate of Incorporation of Hershey Chocolate Corporation, as heretofore amended, is hereby amended so that in its entirety said Article shall read as follows:

"FOURTH: *Capital Stock*

"1. *Number and Classes of Shares Authorized.* The total number of shares of all classes of stock which the Corporation shall have authority to issue is 3,507,686 of which 507,686 shares shall be Preferred Stock of the par value of $50 per share and 3,000,000 shares shall be Common Stock without par value. The Preferred Stock shall consist of two series, viz.: 253,843 shares of Series A 4¼% Cumulative Preferred Stock and 253,843 shares of Series B 4½% Cumulative Preferred Stock. The powers, preferences and rights, and the qualifications, limitations or restrictions thereof, of the respective classes or series of capital stock of the Corporation are hereinafter set forth in this Article. The two series of Preferred Stock are hereinafter called "Series A 4¼% Preferred Stock" and "Series B 4½% Preferred Stock", respectively.

"2. *Reclassification of Convertible Preference Stock; Status of Outstanding Common Stock.* Each share of Convertible Preference Stock without par value outstanding immediately preceding the effective date of this amendment, together with all rights appertaining thereto, shall by this amendment be reclassified into, and shall become, one share of Series A 4¼% Preferred Stock, one share of Series B 4½% Preferred Stock and one share of Common Stock. Each share of Common Stock outstanding immediately preceding the effective date of this amendment shall continue as a share of Common Stock as authorized by this amendment.

"3. *Preferential Dividends.* The holders of Preferred Stock shall be entitled, in preference to the holders of Junior Stock (as hereinafter in Section 4 defined) to receive, when and as declared by the Board of Directors, out of any assets legally available for that purpose, preferential cumulative dividends in cash at the rate, in the case of Series A 4¼% Preferred Stock, of 4¼% of par value per annum and, in the case of Series B 4½% Preferred Stock, of 4½% of par value per annum, and (except as hereinafter in this Section provided with respect to unpaid preferential dividends on the Convertible Preference Stock without par value) shall not be entitled to receive any dividends over and above such preferential dividends. Such preferential dividends shall be payable on the 15th day of each of the months of February, May, August and November in each year. Such preferential dividends shall accrue and be cumulative as follows: (*i*) as to shares issued to effect the reclassification of the Convertible Preference Stock without par value provided for in Section 2, from the effective date of this amendment, and (*ii*) as to any shares which may be otherwise issued, from such date as shall make the dividend rights per share of the shares being issued uniform with those of the shares of the same series then outstanding excluding rights to dividends declared and directed to be paid to stockholders of record as of a date preceding the date of issuance of the shares being issued. Each share of Preferred Stock shall rank on a parity with each other share of Preferred Stock, irrespective of series, with respect to preferential dividends at the respective rates fixed for such series, and no preferential dividends shall be declared or paid or set apart for payment for either series unless at the same time a dividend in like proportion to the preferential dividends accrued upon the Preferred Stock of the other series shall be declared or paid or set apart for payment, as the case may be, on the Preferred Stock of the other series then outstanding.

"The holders of Preferred Stock issued to effect the reclassification of the Convertible Preference Stock without par value provided for in Section 2 shall also be entitled to receive, when and as declared by the Board of Directors, out of any assets legally available for the purpose, a single preferential dividend in cash equal in the aggregate to the accrued and unpaid preferential dividends on the Convertible Preference Stock without par value outstanding immediately prior to the effective date of this amendment, such dividend being payable *pro rata* to the holders of Preferred Stock irrespective of series. No Preferred Stock shall be issued otherwise than to effect the reclassification above referred to until after the date of payment of such single preferential dividend.

"4. *Limitations on Dividends on and Purchases of Junior Stock.* As long as any Preferred Stock is outstanding, the Corporation shall not declare or pay any Dividends on Junior Stock or Purchase any Junior Stock of the Corporation (all as hereinafter in this Section defined):

(*a*) unless the Board of Directors shall have declared, and the Corporation shall have paid or set apart for payment in full, the single preferential dividend referred to in the second paragraph of Section 3;

(*b*) unless the Board of Directors shall have declared, and the Corporation shall have paid in full, preferential dividends on the Preferred Stock of all series then outstanding for all previous quarterly dividend periods;

(*c*) unless the Board of Directors shall have declared, and the Corporation shall have paid or set apart for payment in full, preferential dividends on the Preferred Stock of all series then outstanding for the current quarterly dividend period; and

(*d*) unless the Corporation shall have complied with any applicable Preferred Stock Sinking Fund provisions set forth in Section 8.

In the event that at the time there shall have been compliance with the above prescribed conditions, Dividends on and Purchases of Junior Stock may, insofar as the holders of Preferred Stock are concerned, be paid or made at any time or from time to time, in the discretion of the Board of Directors out of any assets legally available for the purpose.

"The term *"Junior Stock"* shall mean Common Stock of the Corporation and any other class of stock of the Corporation which may hereafter be authorized by or pursuant to an amendment of this Article, the preferential rights of which as to dividends and upon liquidation, dissolution or winding up of the Corporation are subordinate to those of the Preferred Stock. The term *"pay Dividends on Junior Stock"* shall mean the payment, distribution, or setting apart of cash or other assets (except shares of Junior Stock) to, or for the benefit of, holders of Junior Stock or one or more classes thereof. The term *"Purchase"* as applied to Junior Stock shall mean the purchase or the acquisition for a consideration of Junior Stock by the Corporation or by a corporation of which the Corporation directly or indirectly owns a majority of the ordinary voting stock, and the redemption of Junior Stock by the Corporation, provided that neither (*i*) a purchase, redemption, or other acquisition of Junior Stock by the Corporation which is made substantially simultaneously with the issuance of other Junior Stock and by the application of a sum not greater than the net proceeds received from such issuance of other Junior Stock, nor (*ii*) an acquisition of Junior Stock through the issuance of other Junior Stock therefor, shall be deemed a Purchase of Junior Stock by the Corporation.

"5. *Liquidation, Dissolution or Winding Up.* In the event of any liquidation, dissolution or winding up of the Corporation the holders of Preferred Stock shall be entitled, in preference to the holders of Junior Stock, to receive from the assets of the Corporation, whether represented by capital, surplus, reserves or earnings, the following preferential amounts in cash, viz., the par value thereof if such liquidation, dissolution or winding up is involuntary or, if voluntary, the following percentages of par value:

(*a*) In the case of Series A 4¼% Preferred Stock, 105% if such liquidation, dissolution or winding up is effected on or before December 31, 1954; if effected in the five suc-

ceeding calendar years, 104½%, 104%, 103½%, 103% and 102½%, respectively; and if effected after December 31, 1959, 102%;

(*b*) In the case of Series B 4½% Preferred Stock, 102%,

plus in each case, whether voluntary or involuntary, a further amount in cash equal to all accrued and unpaid preferential dividends thereon to the date that payment is made available to the holders of Preferred Stock; all of which shall be paid or set apart for payment before or concurrently with the payment of or setting apart for payment of any amount for, or the distribution of any assets of the Corporation to, the holders of any Junior Stock in connection with such liquidation, dissolution or winding up. Each share of Preferred Stock shall rank on a parity with each other share of Preferred Stock, irrespective of series, with respect to the respective preferential amounts fixed for such series (together with accrued and unpaid preferential dividends) payable upon any distribution of assets by way of liquidation, dissolution or winding up of the Corporation, and no such amounts shall be paid or set apart for payment on either series unless at the same time amounts in like proportion to the respective preferential amounts to which the shares of the other series are entitled shall be paid or set apart for payment on the other series then outstanding. After payment or the setting apart for payment to the holders of Preferred Stock of the preferential amounts (together with accrued and unpaid preferential dividends) so payable to them, all the remaining assets of the Corporation shall belong to and be distributable *pro rata* to the holders of Common Stock.

"A liquidation, dissolution or winding up of the Corporation, as such terms are used in this Section 5, shall not be deemed to be occasioned by or to include (*a*) any consolidation or merger of the Corporation with or into any other corporation or corporations, or (*b*) any sale, lease or other conveyance of any or all of the assets of the Corporation.

"6. *Redemption.* Subject to the provisions of this Section 6, the whole or any part of the Preferred Stock of either or both series may, unless preferential dividends on Preferred Stock not then to be redeemed are in arrears on the date on which notice of redemption is given, be redeemed at the option of the Corporation, expressed by resolution of the Board of Directors, at any time or from time to time at the redemption prices (hereinafter called "*Optional Redemption Prices*") per share, equal to the following percentages of par value of the shares redeemed, viz.:

(a) In the case of Series A 4¼% Preferred Stock,

105% if the designated date of redemption is on or before December 31, 1954;

104½% if such designated date shall occur thereafter and on or before December 31, 1955;

104% if such designated date shall occur thereafter and on or before December 31, 1956;

103½% if such designated date shall occur thereafter and on or before December 31, 1957;

103% if such designated date shall occur thereafter and on or before December 31, 1958;

102½% if such designated date shall occur thereafter and on or before December 31, 1959; and

102% if such designated date shall occur thereafter.

(*b*) In the case of Series B 4½% Preferred Stock, 102%,

plus in each case an amount equal to all accrued and unpaid preferential dividends thereon to the date designated for redemption, and the Preferred Stock shall (subject to the limitations set forth in Section 8(*b*)) also be subject to redemption for the purpose of effecting compliance

with the conditions imposed by Section 8 to the payment of Dividends on, or the Purchase of, Junior Stock, at the redemption prices (hereinafter called "*Sinking Fund Redemption Prices*") per share, equal to the following percentages of par value of the shares redeemed, viz.,

102% if the designated date of redemption is on or before December 31, 1953;

101½% if such designated date shall occur thereafter and on or before December 31, 1957;

101% if such designated date shall occur thereafter and on or before December 31, 1961;

100½% if such designated date shall occur thereafter and on or before December 31, 1965; and

100% if such designated date shall occur thereafter;

plus an amount equal to all accrued and unpaid preferential dividends to the date designated for redemption. In case of the redemption of less than all shares of Preferred Stock of a particular series at the time outstanding, the shares of such series to be redeemed shall be selected by the Corporation by lot or in such other manner as the Board of Directors shall deem equitable. Notice of redemption shall be given by the Corporation by mailing a notice thereof to each holder of record of stock to be redeemed at his last address as the same appears on the stock record books of the Corporation, such notice to be mailed at least 30 days prior to the date designated for redemption. At any time after notice of redemption has been given in the manner hereinabove provided, the Corporation may deposit with a bank or trust company in the Borough of Manhattan, The City of New York, named in such notice, having capital, surplus and undivided profits of not less than $5,000,000, the aggregate redemption price, in trust, for payment on or before the date fixed for redemption to the respective orders of the holders of the shares so to be redeemed upon surrender of the certificates for such shares duly endorsed for transfer, if required. Upon the deposit of the said redemption price, as aforesaid, or, if no such deposit is made, upon the redemption date (unless the Corporation shall default in making payment of the redemption price on the redemption date upon surrender of the certificates for the redeemed shares duly endorsed for transfer, if required) such holders shall cease to be stockholders with respect to said shares and, from and after the making of such deposit, or, if no such deposit is made, from and after the redemption date, the shares shall no longer be transferable on the books of the Corporation except to the Corporation and the said holders shall have no interest in or claim against the Corporation with respect to said shares, but shall be entitled only to said redemption price, as aforesaid, from the said bank or trust company, or from the Corporation, without interest thereon, upon surrender of the certificates, as aforesaid. Any funds so deposited by the Corporation and unclaimed for six (6) years from the date fixed for such redemption shall be repaid to the Corporation upon its request, and from the date of such repayment the holders of such shares so called for redemption shall look only to the Corporation for the payment of the redemption price thereof. Any interest accrued on any funds so deposited shall belong to the Corporation and shall be paid to it from time to time.

"7. *Acquisitions of Preferred Stock.* The Corporation shall have the right from time to time to purchase on the open market or at private sale or otherwise reacquire outstanding Preferred Stock of either or both series, provided such reacquisition shall be at a price not exceeding the Optional Redemption Price of the shares reacquired. The Corporation shall not, however, purchase or otherwise reacquire outstanding Preferred Stock while preferential dividends on outstanding shares of Preferred Stock are in arrears, except in accordance with an offer of purchase or call for tenders made to all holders of Preferred Stock upon the same terms for the shares of any one series and, if shares of more than one series are outstanding, upon terms which in the judgment of the Board of Directors are equitable as between the respective series.

"8. *Sinking Fund Provisions.*

(*a*) During the period commencing on the second January 1st following the effective date of this amendment and continuing so long as any shares of Preferred Stock of either series are outstanding, the Corporation shall not pay any Dividends on Junior Stock or Purchase any Junior Stock (all as defined in Section 4) unless, prior to or substantially simultaneously with the payment of such Dividend or the making of such Purchase, as the case may be,

(*i*) the Corporation through application of a sinking fund or otherwise shall have reacquired or shall reacquire and/or shall have called or shall call for redemption (whether at the Sinking Fund Redemption Price or at the Optional Redemption Price) the cumulative number of shares of Series A 4¼% Preferred Stock and the cumulative number of shares of Series B 4½% Preferred Stock, hereinafter specified, viz. 2% of the largest number of shares of each such series theretofore originally issued (whether upon the reclassification of the Corporation's Convertible Preference Stock without par value or otherwise) multiplied by the number of full calendar years elapsing within the period commencing on the first January 1st following the effective date of this amendment and ending on December 31st of the year which next precedes the year in which such Dividend on Junior Stock is proposed to be paid or such Purchase of Junior Stock is proposed to be made, as the case may be; and

(*ii*) as to shares of Preferred Stock the reacquisition of which or the redemption of which at the Optional Redemption Price is used by the Corporation in meeting the condition imposed by the preceding clause (*i*) to the payment of Dividends on, or Purchase of, Junior Stock, the Corporation shall have evidenced such use by filing with each transfer agent of each series of Preferred Stock of which any shares are outstanding a certificate of its President or any Vice-President or its Treasurer to the effect that the Corporation has reacquired or has redeemed at the Optional Redemption Price the shares in question and has not resold or reissued the same and that, pursuant to authorization of its Board of Directors or executive committee, the Corporation has irrevocably appropriated to such use the reacquisition or the redemption of the shares in question, each such certificate so filed being hereinafter called an "*appropriation certificate*".

Appropriation certificates may be filed in anticipation of the requirements of future years.

(*b*) The Corporation may from time to time redeem outstanding shares of Preferred Stock of either or both series at the then applicable Sinking Fund Redemption Price thereof, provided that the number of shares of a given series redeemed at the Sinking Fund Redemption Price in any calendar year shall not exceed (*i*) the cumulative number of shares of such series required to be or to have been reacquired or called for redemption in order to permit the Corporation to pay Dividends on, or Purchase, Junior Stock in the following calendar year, minus (*ii*) the total number of shares of such series which have previously been called for redemption at the Sinking Fund Redemption Price thereof applicable at the time of their redemption or which are covered by one or more appropriation certificates.

(*c*) Preferred Stock redeemed at the Sinking Fund Redemption Price thereof or covered by one or more appropriation certificates shall not be resold or reissued and if not previously retired shall be promptly retired in any manner provided by law. Nothing in this Section 8 however shall restrict the resale or reissuance of shares of Preferred Stock which have been reacquired by the Corporation or which have been redeemed at the Optional Redemption Price thereof unless and until the Corporation at its option shall have caused the same to be covered by an appropriation certificate or to be retired, and any such resale or reissuance of such shares not so covered or retired shall not be deemed an original issue for the purpose of the computation provided for in clause (*i*)

of paragraph (*a*) of this Section 8. Shares of Preferred Stock retired pursuant to the first sentence of this paragraph (*c*) or voluntarily retired by the Corporation shall not be reissued and upon such retirement the authorized capital stock of the Corporation shall be reduced to the extent of the aggregate par value of the shares so retired.

(*d*) Shares of Series B 4½% Preferred Stock which, on or before December 31, 1953, shall be called for redemption at 102% of the par value thereof plus an amount equal to all accrued and unpaid dividends thereon shall, for all purposes of Sections 6 and 8, be deemed to have been called for redemption at the Optional Redemption Price thereof and not at the Sinking Fund Redemption Price thereof, notwithstanding that such prices are identical.

"9. *Ordinary Voting Rights.* Except as otherwise provided by law or by the provisions of this Article the holders of Common Stock shall have the exclusive voting rights and powers and the holders of Preferred Stock shall have no voting rights or powers or any rights to receive notices of stockholders meetings.

"10. *During Dividend Default Period Preferred Stock, Voting as Class, May Elect Two Directors at Annual Meetings.* If at any time preferential dividends on any Preferred Stock shall be in arrears in an amount equal to four quarterly dividends thereon (whether consecutive or not), the occurrence of such contingency shall mark the beginning of a period (hereinafter called "*Dividend Default Period*") which shall continue until there shall have been declared and paid or set apart for payment on all shares of Preferred Stock at the time outstanding all accrued and unpaid preferential dividends for the current and all prior quarterly dividend periods.

During each Dividend Default Period the holders of Preferred Stock shall be entitled to receive notice of annual meetings of stockholders, and at annual meetings (including adjournments thereof) such holders, voting separately and as a class, irrespective of series, shall be entitled to elect two directors, and the holders of Junior Stock, voting separately from the holders of Preferred Stock and as one or more classes, as the case may be, shall be entitled to elect the remaining directors of the Corporation. In the event that, by reason of any failure to hold an annual meeting, or of any failure to validly elect thereat any directors whatever, a special meeting for the election of directors shall be held during a Dividend Default Period, the holders of Preferred Stock and the holders of Junior Stock shall have rights as to notice and the election of directors similar to those above applicable to annual meetings.

At all annual meetings of stockholders at which holders of Preferred Stock are entitled as a class to elect two directors, the holders of record of one-third of the Preferred Stock, irrespective of series, present in person or represented by proxy, shall be necessary to constitute a quorum for the election of such directors. The absence of such quorum at such meeting or any adjournment thereof shall not prevent the election of the other directors by a quorum of the holders of Junior Stock. If such quorum of holders of Preferred Stock is lacking at an annual meeting such meeting shall be adjourned. If at the first such adjournment or any subsequent adjournment such quorum is lacking but a quorum of Junior Stockholders shall be present or represented by proxy, the Directors which the holders of Preferred Stock failed to elect shall, under such circumstances, be elected by the Junior Stockholders for the ensuing term in like manner as if there were no Dividend Default Period then existing.

Upon the termination of any Dividend Default Period the holders of Preferred Stock shall be divested of their right to vote as specified in this Section 10 and the voting rights of the holders of Junior Stock shall revert to their former status, subject to the restoration of such right to the holders of Preferred Stock in the event of the occurrence of one or more subsequent Dividend Default Periods.

"11. *Consent of Holders of Two-Thirds of Outstanding Preferred Stock Required as to Certain Matters.* As long as any Preferred Stock is outstanding, the Corporation shall not without the consent of the holders of at least two-thirds in number of shares of the outstanding Preferred Stock, irrespective of series except as otherwise in this Section 11 provided, given in person or by proxy at a meeting of stockholders called for that purpose, or given in writing:

(*a*) Amend or repeal any provision of, or add any provision to, the Certificate of Incorporation of the Corporation, if such action would alter or change the preferences, special rights or powers of the Preferred Stock so as to affect such Preferred Stock adversely;

(*b*) Authorize or create, or increase the authorized amount of, any other capital stock (herein called *"Other Preference Stock"*) having preferential rights as to dividends, or upon liquidation, dissolution or winding up of the Corporation, which are prior to those of the Preferred Stock, or authorize or create any stock, security, debt or obligation convertible into or exchangeable for Other Preference Stock or evidencing the right to purchase the same or;

(*c*) Reclassify any shares of Junior Stock into Preferred Stock, or into any other stock having preferential rights as to dividends, or upon liquidation, dissolution or winding up of the Corporation, which are on a parity with those of the Preferred Stock, or into Other Preference Stock; or

(*d*) By voluntary action dissolve, liquidate, or wind up the Corporation, or sell, lease or convey (except to one or more corporations all of the capital stock of which, other than directors' qualifying shares, is owned by the Corporation) all or substantially all of the assets of the Corporation, provided, however, that the execution and delivery of a mortgage, deed of trust, or instrument of pledge, covering all or substantially all of the assets of the Corporation shall not be deemed to be a sale or conveyance thereof; or

(*e*) Effect the merger or consolidation of the Corporation, unless (*i*) the surviving or resulting corporation (which may be the Corporation or another corporation) will have, immediately after such merger or consolidation, no stock either authorized or outstanding ranking prior to or on a parity with the Preferred Stock as to dividends or upon liquidation, dissolution or winding up of the surviving or resulting corporation, except the same or a lesser number of shares of stock having such priority or parity with the same or lesser rights, preferences and powers as the stock of the Corporation authorized and outstanding immediately prior to such merger or consolidation; and (*ii*) each holder of Preferred Stock immediately prior to such merger or consolidation shall be entitled to retain or receive the same number of shares, with the same rights, preferences and powers, of the resulting corporation.

Provided, however, that:

(*i*) If any action described in the foregoing paragraph (*a*) would affect adversely Preferred Stock of less than all series, such action shall require the consent of the holders of at least two-thirds (⅔) in number of shares of the outstanding Preferred Stock of such series only as may be so affected, acting as a class, given as aforesaid; and

(*ii*) Any action specified in this Section 11 as requiring such consent of the holders of Preferred Stock, irrespective of series, or of the holders of Preferred Stock of less than all series, as the case may be, may, unless provided otherwise by statute, be taken with such consent, and with such additional vote or consent, if any, of holders of Junior Stock, or of a particular class or classes of Junior Stock, as from time to time may be required by law.

"12. *Consent of Holders of Majority of Outstanding Preferred Stock Required as to Certain Matters.* As long as any Preferred Stock is outstanding, the Corporation shall not without the consent of the holders of at least a majority in number of shares of the outstanding Preferred Stock of each series, given in person or by proxy at a meeting of stockholders called for that purpose, or given in writing, increase the authorized amount of Preferred Stock of either or both series or authorize or create, or increase the authorized amount of, any other capital stock having preferential rights as to dividends, or upon liquidation, dissolution or winding up of the Corporation, which are on a parity with those of the Preferred Stock. Any action specified in this Section 12 as requiring such consent of the holders of at least a majority of the Preferred Stock of each series may, unless otherwise provided by statute, be taken with such consent, and with such additional vote or consent, if any, of holders of Junior Stock, or of a particular class or classes of Junior Stock, as from time to time may be required by law.

"13. *Limited Preemptive Right of Common Stockholders; Negation of Preemptive and Convertible Rights of Preferred Stockholders.* The holders of Common Stock shall at all times have the right to subscribe *pro rata* to any and all additional shares of Common Stock which may at any time be issued for cash, and to any stock, bonds, debentures or other securities convertible into shares of Common Stock; but, except as aforesaid, no holder of Common Stock shall, as such holder, have any preemptive right in, or preemptive right to subscribe to, any shares of stock of any class which may at any time be issued, or any bonds, debentures or other securities convertible into shares of stock of any class.

"No holder of any Preferred Stock of either series shall have any right as such holder to purchase, subscribe for or otherwise acquire, or convert Preferred Stock into, any shares of stock of the Corporation of any class now or hereafter authorized, or any stock, bonds, debentures or other securities, convertible into shares of stock of any class.

"14. *Miscellaneous.* The term *"this amendment"* means this amendment to Article FOURTH of the Certificate of Incorporation. The term *"effective date of this amendment"* shall mean the time when, a certificate of this amendment having been filed in the office of the Secretary of State of the State of Delaware, a certified copy thereof shall be filed for recordation in the office of the Recorder of New Castle County, State of Delaware. The term *"this Article"* shall mean this Article FOURTH of the Certificate of Incorporation. References herein to Sections shall refer to Sections of this Article. The descriptive headings of the several Sections are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

"15. *Minimum Amount of Capital.* The minimum amount of capital with which the Corporation will commence business is $1,000."

EXHIBIT B.

The following is a copy of Article Fourth of the Certificate of Incorporation as heretofore amended, exclusive of obsolete paragraphs I to XI, inclusive, which relate solely to the rights of a class of Prior Preferred Stock retired many years ago and no longer authorized. The first two unnumbered paragraphs and paragraphs XX to XXII, inclusive, of the present Article FOURTH give effect to the amendment of such Article effected September 16, 1947. The third unnumbered paragraph and paragraphs XII to XIX, inclusive, have not been amended since their original inclusion in the amendment effected November 10, 1927.

FOURTH: The total number of shares which may be issued by the Corporation is 3,350,000, all of which are without par value, divided into 350,000 shares designated as Convertible Preference Stock and 3,000,000 shares designated as Common Stock.

The minimum amount of capital with which the Corporation will commence business is One Thousand Dollars ($1,000).

The voting powers, preferences and relative, participating, optional or other special rights, or qualifications, limitations or restrictions thereof, of the respective classes of stock, are as follows: * * * *

XII. Subject to the provisions of paragraph I hereof, the Convertible Preference Stock (hereinafter, for convenience, referred to as "Convertible Stock") shall be entitled to receive, when and as declared from the surplus or the net profits, cumulative regular quarterly dividends at the rate of $4 a share per annum, and no more, except as herein otherwise provided, payable on the fifteenth day of each of the months of February, May, August and November, in each year, to stockholders of record on the twenty-fifth day of the month next preceding the date of payment. At any time after regular dividends shall have been paid, as above provided, on the Convertible Stock for all previous dividend periods, and after declaring and setting aside a sum for the payment of a full regular quarterly dividend of $1 a share on the Convertible Stock for the then current dividend period, then, and not prior thereto, out of any remaining surplus or net profits, dividends may be declared on the Common Stock; provided, that, prior to the first declaration of a dividend on the Common Stock in any year, the Board of Directors shall declare and set aside a sum for the payment of an extra dividend of $1 a share on the Convertible Stock, payable on the next quarterly dividend date, or, if such dividend date shall occur within one month of the date of such declaration, then on the next following quarterly dividend date, to stockholders of record on the twenty-fifth day of the month next preceding the date of payment.

XIII. Upon any distribution of capital assets (voluntary or involuntary), the Convertible Stock shall be entitled to receive, subject to the provisions of paragraph II hereof, a sum equivalent to all unpaid regular dividends (if any) accumulated thereon and any extra dividends declared but unpaid, and, in addition thereto, each share of such stock shall be entitled to receive the sum of $50, before any distribution shall be made to the Common Stock. After such distribution shall have been made to the Convertible Stock, in full, the Convertible Stock and the Common Stock shall be entitled to share ratably, share and share alike, in any further distribution of capital assets, until each share of Convertible Stock shall have received the further sum of $50; and, thereafter, the Common Stock shall be entitled to receive all the remainder of the capital assets so distributed.

XIV. The Convertible Stock shall, at the option of the respective holders thereof, be convertible at any time or times into full paid and non-assessable shares of Common Stock without par value, at the rate of one share of Convertible Stock for one share of Common Stock, upon surrender to the Corporation, or to its transfer agent or agents (if so provided in the By-laws), of the certificates of the Convertible Stock so to be converted, accompanied

by proper instruments of transfer duly executed in blank; and, thereupon, the Corporation shall cause to be issued to such holders, or their assigns, in exchange therefor, certificates for the number of shares of Common Stock issuable upon such conversion, as herein provided. Anything herein contained to the contrary notwithstanding, if, at any time, the Corporation shall issue any Common Stock, either as a stock dividend or in subdivision of any previously outstanding shares, or for labor or services, the number of shares of Common Stock thereafter issuable upon the surrender of any Convertible Stock for conversion, as herein provided, shall be increased in the same proportion as the number of shares of Common Stock which were outstanding immediately prior to such issue of Common Stock as a stock dividend or in subdivision of previously outstanding shares, or for labor and services (as the case may be), was increased by such issue.

In case of any issue of Common Stock as a stock dividend or in subdivision of previously outstanding shares, or for labor or services, a statement, signed by the President or a Vice-President and by the Secretary or the Treasurer of the Corporation, appoved by some competent certified public or chartered accountant or accountants, shall be filed forthwith by the Corporation with its transfer agent or agents, showing the number of shares of Common Stock so issued, the number of shares of Common Stock which were outstanding immediately prior to such issue, and the number of shares of Common Stock thereafter issuable upon the conversion of each share of Convertible Stock.

Of the authorized Common Stock, an amount sufficient to provide for the conversion of the Convertible Stock from time to time outstanding, at the conversion rate currently in effect, shall at all times be reserved for the purpose of effecting the conversion thereof. No issue of Common Stock, or of any stock, bonds, debentures or other securities convertible into Common Stock, shall at any time be made, unless and until (a) the amount of authorized unissued Common Stock, after deducting therefrom the amount thereof (if any) proposed so to be issued, shall at least equal the full amount thereof required, after such issue of Common Stock, to be reserved for the purpose of effecting the conversion of all outstanding Convertible Stock at the then current conversion rate, and (b) the Corporation shall have taken effective corporate action to provide for the issue of such reserved Common Stock only for the purpose of such conversion.

If the number of shares of Common Stock issuable upon the conversion of Convertible Stock, in any case, shall include a fraction of a share, a scrip certificate with respect to such fraction shall be executed by the Corporation and delivered to the holder of the Convertible Stock so surrendered for conversion, together with the certificate or certificates for the number of whole shares of the Common Stock issuable upon such conversion. The Corporation shall not be required to issue fractional shares of Common Stock for the purpose of any such conversion, but shall at all times keep in reserve a number of unissued shares of Common Stock at least equal to the number of shares represented by the scrip certificates outstanding from time to time. Any or all such scrip certificates shall be exchangeable, at the option of the respective holders thereof, upon surrender to the Corporation, or its transfer agent or agents, in amounts aggregating one or more whole shares of Common Stock, for a stock certificate for the number of whole shares of Common Stock so aggregated, and a new scrip certificate for the remaining fraction of a share (if any), which new scrip certificate may in turn be combined with other scrip certificates, to make up another whole share or shares of Common Stock. Until exchanged for a stock certificate, as above provided, scrip certificates shall not confer any voting rights or entitle the respective holders thereof to dividends or to any of the rights of stockholders.

XV. Except as herein or by law expressly provided, the Convertible Stock shall have no right to vote for the election of directors or for any other purpose, or on any other subject, or to be represented at or to receive notice of any meeting of stockholders, so long as the Corporation shall not be in default as in this paragraph XV provided. If, however, and

whenever regular quarterly dividends with respect to the Convertible Stock shall be in arrears in an amount equal to or exceeding $4 a share, thereafter, the Convertible Stock shall have the right to receive notice of all meetings of stockholders, and, at every such meeting, the Convertible Stock shall, for any and all purposes, have full voting rights, share for share, with the Common Stock, both with respect to the number of votes cast for each share and in every other respect; and such voting rights shall continue in the Convertible Stock until all unpaid regular dividends accumulated thereon shall have been paid or declared and a sum set aside for the payment thereof, at which time the Convertible Stock shall be again excluded from the right to vote or to be represented at or to receive notice of meetings, except as herein or by law expressly provided. The voting rights herein provided to be exercised by the Convertible Stock in case of default shall accrue and may be exercised, from time to time, whenever default shall occur and continue as in this paragraph XV provided.

XVI. So long as any of the Convertible Stock remains outstanding, the Corporation shall not sell, convey, assign, transfer, lease, exchange or otherwise dispose of its properties and assets as an entirety, or substantially as an entirety, unless such sale, conveyance, assignment, transfer, lease, exchange or other disposal be authorized by the affirmative vote, or the written consent, of the holders of record of a majority of the issued and outstanding Convertible Stock, anything in this Certificate of Incorporation contained to the contrary notwithstanding; and the Convertible Stock shall at all times have the right to vote, as a class, in any proceedings relative to any such sale, conveyance, assignment, transfer, lease, exchange or other disposal of properties or assets.

XVII. The holders of Convertible Stock shall at all times have the right to subscribe, ratably with the holders of Common Stock, share and share alike, to any and all additional shares of Common Stock which may at any time be issued for cash, and to any stock, bonds, debentures or other securities convertible into shares of Common Stock; but, except as aforesaid, no holder of Convertible Stock shall, as such holder, have any preemptive right in, or preemptive right to subscribe to, any shares of stock of any class which may at any time be issued, or any bonds, debentures or other securities convertible into shares of stock of any class.

XVIII. So long as any of the Convertible Stock remains outstanding, none of the provisions of paragraphs XII to XVII hereof, inclusive, or of this paragraph XVIII, shall at any time be changed, amended or repealed, unless such change, amendment or repeal be authorized by the vote of two-thirds in interest of the Convertible Stock then outstanding; and the Convertible Stock shall at all times have the right to vote, as a class, in any proceeding relative to any such change, amendment or repeal.

XIX. Each holder of Common Stock shall, at every meeting of stockholders, be entitled to one vote, in person or by proxy, for each share of Common Stock held by him.

XX. The holders of Common Stock shall at all times have the right to subscribe, ratably with the holders of Convertible Stock, share and share alike except as otherwise in the following paragraph XXII provided, to any and all additional shares of Common Stock which may at any time be issued for cash, and to any stock, bonds, debentures or other securities convertible into shares of Common Stock; but, except as aforesaid, no holder of Common Stock shall, as such holder, have any preemptive right in, or preemptive right to subscribe to, any shares of stock of any class which may at any time be issued, or any bonds, debentures or other securities convertible into shares of stock of any class.

XXI. Each of the shares of Common Stock of the Corporation, without par value, heretofore issued and outstanding, is hereby subdivided and changed into three shares of Common Stock, without par value; and the Corporation shall give effect to such subdivision by dis-

tributing to the holders of record of the said issued and outstanding shares of Common Stock of the Corporation, without par value, certificates for two additional shares of Common Stock, without par value, for each share of Common Stock, without par value, held of record.

XXII. The subdivision of shares of Common Stock of the Corporation, without par value, effected pursuant to the provisions of paragraph XXI above, shall not affect or modify in any respect the theretofore existing relative rights of the Convertible Stock and the Common Stock as hereinbefore set forth in this Article FOURTH in the provisions relating to the Convertible Stock, and, accordingly, upon such subdivision of shares of the Common Stock, the Convertible Stock shall be convertible into three shares of Common Stock, instead of one, and shall be entitled, with respect to its rights to participate with the Common Stock upon distributions of capital assets, its voting rights upon default, and its subscription rights, to participate or vote ratably with the Common Stock, in all situations heretofore requiring such participation or voting share for share or share and share alike, on the basis of three aliquot shares, votes or rights, as the case may be, for each share of Convertible Stock, to one aliquot share, vote or right, as the case may be, for each share of Common Stock.

EXHIBIT C

WERTHEIM & CO.
120 Broadway
New York 5, N. Y.

October 25, 1949

Hershey Chocolate Corporation
Hershey
Pennsylvania

Gentlemen:

In connection with the Plan for the revision of your capital structure, in the formulation of which we have acted as your financial advisor, you have requested us to express in writing for inclusion as an exhibit to your proxy statement our opinion on two specific points. This we are very happy to do, as follows:

1—In regard to the market value to be expected for the two proposed $50. par preferred stocks: It is our opinion that a unit consisting of one share of each issue, viz. Series A 4¼% and Series B 4½%, should, under present day market conditions for industrial preferred stocks of similar investment character, have a market value of not less than $103.

2—With respect to financial savings in prior charges which might be effected if the Corporation were to elect to redeem the proposed 253,843 shares of Series B 4½% Cumulative Preferred Stock and to finance such redemption by the sale of long-term debentures, with customary sinking fund and other protective provisions: It is our opinion that, on the basis of money rates presently available and existing income tax laws, the Corporation should be able to sell such Debentures on a basis which, giving effect to the income tax credit on interest paid, would result in the equivalent of a reduction in annual preferred dividend charges of not less than $335,000. This amount is approximately 30% of $1,110,563, which latter amount represents the maximum annual preferred dividend charges under the Plan.

Yours very truly,

WERTHEIM & CO.

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